

SEVENTY-FOURTH DAY

WEDNESDAY, MAY 14, 1997

PROCEEDINGS

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by President Pro Tempore Zaffirini.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna.

The President Pro Tempore announced that a quorum of the Senate was present.

Bishop Michael D. Pfeifer, Bishop of San Angelo, offered the invocation as follows:

Loving God, father and creator, we give You praise and glory with our presence, our prayer, and the service that we have the privilege of giving You and the citizens of Texas. We thank You for Your countless blessings, both material and spiritual, that are poured out upon us like the rain. Father, we ask that You send the Holy Spirit upon Your servants gathered here for deliberation, discussion, and decisions for the common good. May this spirit guide them with Your wisdom and support them by Your power. God, our Father, You desire justice for all. We ask that You enable these Senators to uphold the rights of others and do not allow them to be misled by ignorance, selfish interests, or corrupted by fear or favor. Unite them to Yourself in bonds of love and keep them faithful to all that is true. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of important business.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER****Austin, Texas****Wednesday, May 14, 1997**

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 399, Relating to the availability of governmental information about motor vehicle accidents.

HB 583, Relating to public education, including the parental involvement division of the Texas Education Agency, waivers by school campuses and districts, public school campus report cards, liability of school districts, and the use of certain public school funds.

HB 1188, Relating to home equity loans, the regulation of certain institutions and occupations connected with home equity loans, and the consideration of home equity in certain financial assistance applications; providing an administrative penalty.

HB 1202, Relating to the liability of certain persons for injury to others that occurs on certain real property.

HB 1662, Relating to rates for certain lines of insurance.

HB 2128, Relating to the use of telephone caller identification services and automated dial announcing devices by telephone solicitors; providing an administrative penalty.

HB 2385, Relating to the creation of the Health and Human Services Policy Council.

HCR 253, Commemorating the 50th anniversary of the Fort Bend County Library System.

SB 555, Relating to certain business organizations; providing penalties.

SB 925, Relating to the imposition, collection, and administration of LPG delivery fees.

(Amended)

SB 928, Relating to employment as a firefighter in certain municipalities.

SB 1150, Relating to registration and reporting requirements pursuant to the collection, management, and recycling of used oil.

SB 1202, Relating to directing the Texas Veterans Commission to determine the need for establishing state cemeteries for veterans.

SB 1227, Relating to the establishment of a comprehensive plan by a municipality.
(Amended)

SB 1380, Relating to the creation of an electronic state business daily to give notice before a state agency makes a procurement with a value that exceeds \$25,000.
(Committee Substitute/Amended)

SB 1388, Relating to reserves maintained by title insurers.

SB 1506, Relating to special license plates for the Houston Livestock Show and Rodeo.
(Amended)

SB 1639, Relating to a lien for the processing or harvesting of cotton.
(Amended)

SB 1922, Relating to the definition of coastal wetlands for purposes of the coastal management program administered by the Coastal Coordination Council.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 710 (140 Yeas 0 Nays 1 Present-not voting)

HB 1482 (Viva-voce vote)

HB 1638 (Viva-voce vote)

HB 1747 (Viva-voce vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 9

House Conferees: Stiles - Chair/Corte/Flores/Hernandez/Telford

HB 311

House Conferees: Place - Chair/Dunnam/Farrar/Hinojosa/Keel, Terry

HB 1212

House Conferees: Averitt - Chair/Eiland/Olivo/Smithee/Van de Putte

HB 1710

House Conferees: Lewis, Glenn - Chair/Crabb/Luna, Vilma/Solis/Thompson

HB 1836

House Conferees: Goolsby - Chair/Keffer/Raymond/Siebert/Yarbrough

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1300 (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILL

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bill: **SB 1955**

SENATE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution were introduced, read first time, and referred to the committees indicated:

SB 1955 by Madla

Relating to the transfer of certain occupational certification and licensing programs administered by the Texas Natural Resource Conservation Commission.

To Committee on Natural Resources.

SCR 90 by Patterson

Granting Arteaga Construction Company, Inc., permission to sue the state and Texas Southern University.

To Committee on Finance.

HOUSE RESOLUTIONS ON FIRST READING

The following resolutions received from the House were read first time and referred to the committees indicated:

HCR 204 to Committee on Economic Development.

HCR 228 to Committee on Administration.

HCR 229 to Committee on Administration.

(President in Chair)

SENATE CONCURRENT RESOLUTION 86

Senator Bivins offered the following resolution:

WHEREAS, The 75th Legislature of the State of Texas is proud to honor Kenneth H. Ashworth for his many outstanding contributions to higher education in Texas and to congratulate him on his retirement; and

WHEREAS, Commissioner Ashworth came from very humble beginnings; he served as an Eagle Scout and then served for four years in the United States Navy; he enrolled in The University of Texas at Austin, where he was a Phi Beta Kappa graduate in economics in 1958; he earned a master's degree in public administration from Syracuse University in 1959 and a doctorate degree in the history and philosophy of education from The University of Texas at Austin in 1969; and

WHEREAS, Dr. Ashworth's long and distinguished public service career began in the 1960s in Washington, D.C., when he joined the United States Treasury Department; he later served with the United States Urban Renewal Administration, the San Francisco Redevelopment Agency, and the College Construction Grants Section of the United States Office of Education; and

WHEREAS, In 1966, Dr. Ashworth returned to Texas and held several positions in higher education with The University of Texas System and The University of Texas at San Antonio; and

WHEREAS, Dr. Ashworth was appointed Texas Commissioner of Higher Education by the Texas Higher Education Coordinating Board in 1976; during his tenure, he has consistently and successfully worked to provide quality higher education opportunities for all citizens of Texas by ensuring that the state uses its higher education dollars as effectively and efficiently as possible; and

WHEREAS, Commissioner Ashworth has contributed greatly to his state and country through his service with a myriad of educational organizations and by his authorship of several insightful books on higher education; due to his excellent work, the Texas Higher Education Coordinating Board has gained a position of great respect; and

WHEREAS, Commissioner Ashworth has often faced considerable challenges, particularly those arising from higher education institutions seeking to spend tax dollars and legislators simultaneously seeking to save tax dollars; and

WHEREAS, Commissioner Ashworth has weathered many storms, including the repeated desires of several governors and some legislators for his resignation or termination, as well as the threat of legislation proposing the abolishment of the coordinating board; and

WHEREAS, Commissioner Ashworth's integrity and sense of fairness remain well regarded and well recognized throughout the state, even though he has taken tough, unpopular positions to help guarantee the future success of higher education in Texas; and

WHEREAS, Commissioner Ashworth has endured many years of being grilled at legislative hearings and being blamed by higher education institutions for all manner of shortcomings; he has retained, however, his sense of humor and insists that he occasionally has said "yes"; and

WHEREAS, After more than two decades of service to the State of Texas, Commissioner Ashworth has decided to retire because he has "many more books to read, more music to play, more words to write, and more places to see with my wife"; now, therefore, be it

RESOLVED, That the 75th Legislature of the State of Texas hereby recognize and commend Commissioner Kenneth H. Ashworth for his exemplary and outstanding public service and for his invaluable contributions toward improving higher education in the State of Texas and providing access to quality higher education for all citizens of Texas and extend to him sincere best wishes for continued success and happiness in all his future endeavors; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Commissioner Ashworth as an expression of high regard by the Texas Legislature.

The resolution was again read.

The resolution was previously adopted on Friday, May 9, 1997. The names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUESTS PRESENTED

Senator Bivins was recognized and introduced to the Senate Dr. Kenneth Ashworth, Commissioner of Texas Higher Education; his wife Emily; his brother R. B. Ashworth; Chair of the Higher Education Coordinating Board, Leonard Rauch; and Vice-chair of the Texas Higher Education Coordinating Board, Pam Willeford.

The Senate welcomed its guests.

(Senator Truan in Chair)

SENATE BILL 1033 WITH HOUSE AMENDMENT

Senator Harris called **SB 1033** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1033** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the ad valorem taxation of property and to the appraisal of property for ad valorem tax purposes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (f), Section 23.55, Tax Code, is amended to read as follows:

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of:

(1) a sale for right-of-way;

(2) [or] a condemnation; or

(3) a transfer of the property to the state or a political subdivision of the state to be used for a public purpose.

SECTION 2. This Act takes effect September 1, 1997.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Harris moved to concur in the House amendment to **SB 1033**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

(President in Chair)

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 145, SB 358, SB 728, SB 1233, SB 1268, SB 1269, SB 1295, SB 1352, SB 1437, SB 1519, SB 1722, SB 1736, SB 1828, SB 1903, SB 1924, SCR 14, SCR 42, SCR 55, SCR 69

**CONFERENCE COMMITTEE ON
SENATE BILL 606 DISCHARGED**

On motion of Senator Lucio and by unanimous consent, the Senate conferees on **SB 606** were discharged and the appointment of a new conference committee was requested.

The President asked if there were any motions to instruct the new conference committee on **SB 606**.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lucio, Chair; Madla, Zaffirini, Sibley, and Truan.

HOUSE BILL 3354 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3354, Relating to the operation of the Texas Workers' Compensation Insurance Fund.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 3354 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3354** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

HB 3354 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1550 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1550, Relating to the juvenile justice system.

The bill was read second time.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1550** by deleting SECTION 47 and adding a new SECTION 47 to read as follows:

SECTION 47, Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 244 to read as follows:

**CHAPTER 244. CORRECTIONAL OR
REHABILITATION FACILITY LOCATION**

Sec. 244.001. DEFINITIONS. In this chapter:

(1) "Correctional or rehabilitation facility" means a probation or parole office or a facility that:

(A) is operated by an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency of the state or a political subdivision of the state; and

(B) houses persons convicted of misdemeanors or felonies or children found to have engaged in delinquent conduct, whether the persons are housed in the facility:

(i) while serving a sentence of confinement following conviction of an offense;

(ii) as a condition of probation, parole, or mandatory supervision; or

(iii) pursuant to a court order for out-of-home placement under Title III, Family Code.

(2) "Private residence" means a dwelling and includes a single family home, duplex, multifamily unit, lodging or boarding house, mobile home, resident or nursing home for the aged, and foster home.

(3) "Residential zoning area" means an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal permitted land use is for private residences.

Sec. 244.002. PROXIMITY OF CORRECTIONAL OR REHABILITATION FACILITY. (a) An agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state must give each commissioners court specified under Section 244.003(a)(1) and the governing body of each municipality specified under Section 244.003(a)(2) at least 60 days' notice prior to the commencement of construction or operation of a correctional or rehabilitation facility within one-half mile of a residential zoning area, a private residence, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other house of worship.

(b) An agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state may operate a correctional or rehabilitation facility within one-half mile of a residential zoning area, a private residence, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other house of worship unless local consent is denied under Section 244.003.

(c) For the purposes of this chapter, distance is measured along the shortest straight line between the nearest property line of the correctional or rehabilitation facility and the nearest property line of the residential zoning area, residence, school, park, recreation area, or house of worship, as appropriate.

(d) The governing body of a church, synagogue, or other house of worship may waive the distance requirements of Subsection (b) between a correctional or rehabilitation facility and the house of worship by filing an acknowledged written statement of the waiver in the deed records of the county in which the facility is located.

Sec. 244.003. LOCAL CONSENT. (a) Local consent to the operation of a correctional or rehabilitation facility at a particular location is denied if within 60 days after the date notice was received by the commissioners court or governing body of a municipality:

(1) the commissioners court of any county with an unincorporated area that includes all or part of the land within one-half mile of the correctional or rehabilitation facility location determines by resolution after a public hearing that it is not in the best interest of the county to allow the operation of a correctional or rehabilitation facility at that location; or

(2) the governing body of any municipality that includes within its boundaries all or part of the land within one-half mile of the correctional or rehabilitation facility location determines by resolution after a public hearing that it is not in the best interest of the municipality to allow the operation of a correctional or rehabilitation facility at that location.

(b) A commissioners court or governing body of a municipality may rescind a resolution adopted under Subsection (a)(1) or (2).

Sec. 244.004. EXEMPTIONS. This chapter does not apply to the operation of a correctional or rehabilitation facility at a particular location if:

(1) on September 1, 1997, the correctional or rehabilitation facility was in operation, under construction, under contract for operation or construction, or planned for construction at that location on land owned or leased by an agency or political subdivision of the state and designated for use as a correctional or rehabilitation facility; or

(2) the correctional or rehabilitation facility was in operation or under construction before the establishment of a residential zoning area.

The committee amendment was read.

Senator Cain offered the following amendment to Committee Amendment No. 1:

Floor Amendment No. 1

Amend Committee Amendment No. 1 to **HB 1550** by striking the text of the amendment (Senate committee report, page 1, lines 9-65, and page 2, lines 1-37) and substituting the following:

Amend **HB 1550** as follows:

(1) In SECTION 17 of the bill, in amended Section 58.002, Family Code, strike added Subsection (c) (Senate committee report, page 10, lines 46-48) and substitute the following:

(c) This section does not prohibit a law enforcement officer from photographing or fingerprinting a child who is not in custody if the child's parent or guardian voluntarily consents in writing to the photographing or fingerprinting of the child.

(2) In SECTION 25 of the bill, in amended Section 59.006(a)(1), Family Code, strike "more [not less]" (Senate committee report, page 13, line 34) and substitute "not less".

(3) In SECTION 25 of the bill, in amended Section 59.006(a)(1), Family Code, strike "and not" (Senate committee report, page 13, line 35) and substitute "or".

(4) In SECTION 27 of the bill, in amended Section 59.008(a)(1), Family Code, between "(1)" and "place" (Senate committee report, page 14, line 10), insert "as a condition of probation.".

(5) Strike SECTION 47 of the bill (Senate committee report, page 19, lines 50-69, and page 20, lines 1-42) and substitute the following:

SECTION 47. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 244 to read as follows:

**CHAPTER 244. CORRECTIONAL OR
REHABILITATION FACILITY LOCATION**

Sec. 244.001. DEFINITIONS. In this chapter:

(1) "Correctional or rehabilitation facility" means a probation or parole office or a facility that:

(A) is operated by an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency of the state or a political subdivision of the state; and

(B) houses persons convicted of misdemeanors or felonies or children found to have engaged in delinquent conduct, regardless of whether the persons are housed in the facility:

(i) while serving a sentence of confinement following conviction of an offense;

(ii) as a condition of probation, parole, or mandatory supervision; or

(iii) under a court order for out-of-home placement under Title 3, Family Code, other than in a foster home operated under a contract with the juvenile board of the county in which the foster home is located.

(2) "Residential area" means:

(A) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal permitted land use is for private residences;

(B) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of the front footage along the block face; or

(C) a subdivision for which a plat is recorded in the real property records of the county and a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

Sec. 244.002. NOTICE OF PROPOSED LOCATION. (a) An agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state that proposes to construct or operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship shall, if a request is made under Section 244.005, notify:

(1) the commissioners court of any county with an unincorporated area that includes all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility; and

(2) the governing body of any municipality that includes within its boundaries all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility.

(b) An entity required to give notice under Subsection (a) shall give notice not later than the 60th day before the date the entity begins construction or operation of the correctional or rehabilitation facility.

(c) For purposes of this chapter, distance is measured along the shortest straight line between the nearest property line of the correctional or rehabilitation facility and the nearest property line of the residential area, school, park, recreation area, or place of worship, as appropriate.

Sec. 244.003. PROXIMITY OF CORRECTIONAL OR REHABILITATION FACILITY. (a) Unless local consent is denied under Section 244.004, an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state may operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship.

(b) The governing body of a church, synagogue, or other place of worship may waive the distance requirements of Section 244.002 between a correctional or rehabilitation facility and the place of worship by filing an acknowledged written statement of the waiver in the deed records of the county in which the facility is located.

Sec. 244.004. LOCAL CONSENT. (a) Local consent to the operation of a correctional or rehabilitation facility at a location within 1,000 feet of a residential area, a primary or secondary school, property designated as a park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship is denied if, not later than the 60th day after the date on which notice is received by a commissioners court or governing body of a municipality under Section 244.002(a), the commissioners court or governing body, as appropriate, determines by resolution after a public hearing that the operation of a correctional or rehabilitation facility at the proposed location is not in the best interest of the county or municipality, as appropriate.

(b) A commissioners court or governing body of a municipality may rescind a resolution adopted under Subsection (a).

Sec. 244.005. WRITTEN REQUEST TO RECEIVE NOTICE. (a) The commissioners court of a county described under Section 244.002(a)(1) and the governing body of a municipality described under Section 244.002(a)(2) are entitled to notice under Section 244.002(a) only if the commissioners court or the governing body, as appropriate, submits by resolution to the agency or political subdivision of the state that proposes to construct or operate a correctional or rehabilitation facility, or that contracts for the construction or operation of a correctional or rehabilitation facility, a written request to receive notice.

(b) The commissioners court of a county described under Section 244.002(a)(1) and the governing body of a municipality described under Section 244.002(a)(2) are entitled to receive notice under Section 244.002(a) from a private vendor that contracts with an agency or political subdivision of the state only if the commissioners court or governing body, as appropriate, submits by resolution to the contracting agency or political subdivision of the state a written request to receive notice.

Sec. 244.006. EXEMPTIONS. This chapter does not apply to the operation of a correctional or rehabilitation facility at a location subject to this chapter if:

(1) on September 1, 1997, the correctional or rehabilitation facility was in operation, under construction, under contract for operation or construction, or planned for construction at the location on land owned or leased by an agency or political subdivision of the state and designated for use as a correctional or rehabilitation facility;

(2) the correctional or rehabilitation facility was in operation or under construction before the establishment of a residential area the location of which makes the facility subject to this chapter;

(3) the correctional or rehabilitation facility is a temporary correctional or rehabilitation facility that will be operated at the location for less than one year;

(4) the correctional or rehabilitation facility is required to obtain a special use permit or a conditional use permit from the municipality in which the facility is located before beginning operation;

(5) the correctional or rehabilitation facility is an expansion of a facility operated by the institutional division of the Texas Department of Criminal Justice; or

(6) the correctional or rehabilitation facility is a county jail or a pre-adjudication juvenile detention facility operated by a county or county juvenile board.

The amendment to Committee Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Committee Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 1550** as follows:

On page 30, line 7, insert the phrase on probation after the child.

The committee amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend **HB 1550** as follows:

On page 10, line 4, strike the phrase "or a peace officer"

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1550** by adding a new section appropriately numbered to read as follows and renumbering subsequent sections accordingly:

SECTION __. Subchapter B, Chapter 87, Education Code, is amended by adding Section 87.105 to read as follows:

Sec. 87.105. CENTER FOR THE STUDY AND PREVENTION OF JUVENILE CRIME AND DELINQUENCY. (a) The Center for the Study and Prevention of Juvenile Crime and Delinquency is established at Prairie View A&M University.

(b) The organization, control, and management of the center is vested in the board of regents of The Texas A&M University System.

(c) The board of regents shall approve the employment of personnel by and the operating budget of the center. An employee of the center is an employee of Prairie View A&M University.

(d) The center may:

(1) conduct, coordinate, collect, and evaluate research in all areas relating to juvenile crime and delinquency;

(2) provide a setting for educational programs relating to juvenile crime and delinquency, including degree programs at Prairie View A&M University and other educational programs such as continuing education and in-service training for criminal justice and social service professionals;

(3) serve as a state and national resource for information on juvenile crime and delinquency; and

(4) in connection with its research and educational programs:

(A) develop programs, policies, and strategies to address juvenile crime and delinquency and related social problems; and

(B) create partnerships, collaborative efforts, or outreach, public service, or technical assistance programs to assist communities, governmental agencies, or private entities to implement programs, policies, and strategies that address juvenile crime and delinquency and related social problems.

(e) The center may enter into a cooperative agreement or contract with a public or private entity to perform the duties of the center.

(f) The board of regents may accept gifts and grants from a public or private source for the benefit of the center.

(g) Establishment of the center is subject to the availability of funds for that purpose.

ELLIS
WEST

The amendment was read and was adopted by a viva voce vote.

HB 1550 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1550 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1550** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

HB 1550 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1808 ON SECOND READING

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1808, Relating to the confidentiality of certain information obtained by the State Soil and Water Conservation Board or a soil and water conservation district.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1808 ON THIRD READING

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1808** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

HB 1808 was read third time and was passed by a viva voce vote.

HOUSE BILL 1112 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1112, Relating to certain hearings concerning the revocation of the release status of persons under the supervision of the pardons and paroles division of the Texas Department of Criminal Justice and the housing of those persons pending the hearings.

The bill was read second time.

Senator Duncan offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1112** in **SECTION 2** of the bill, in proposed **Section 14**, **Article 42.18**, **Code of Criminal Procedure**, as follows:

(1) In proposed Subsection (d)(3) (house engrossment, page 4, lines 17-19), strike "the prisoner or person is granted a continuance by a parole panel or a designee of the board in the prisoner's or person's hearing under Subsection (a)" and substitute "a parole panel or designee of the board determines that a continuance in the hearing under Subsection (a) is necessary".

(2) In proposed Subsection (f) (house engrossment, page 5, line 23), between "conditions" and the comma, insert "or when a summons is issued for a hearing under this section".

(3) In proposed Subsection (h) (house engrossment, page 6, lines 13-15), strike "and a summons is issued under Section 13(a) requiring the prisoner or person to appear for a hearing under this section".

(4) Immediately after proposed Subsection (i) (house engrossment, page 6, between lines 22 and 23), insert the following:

(j) If a warrant for a prisoner or person issued under Section 13(a) is withdrawn, a summons may be issued requiring the prisoner or person to appear for a hearing under this section.

The committee amendment was read and was adopted by a viva voce vote.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1112** by adding an appropriately numbered **SECTION _** to read as follows, and renumber the subsequent sections accordingly:

SECTION _. Section 13(a), **Article 42.18**, **Code of Criminal Procedure**, is amended to read as follows:

(a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released although not eligible for release, a resident released to a preparole or work program, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which the person was paroled, released, or pardoned may be issued by the director or a designated agent of the director in cases of parole or mandatory supervision, or by the board on order by the governor in other cases, if there is reason to believe that the person has been released although not eligible for release, if the person has been arrested for an offense, if there is a document that is self-authenticating as provided by Rule 902, Texas Rules of Criminal Evidence [verified complaint] stating that the person violated a rule or condition of release, or if there is reliable evidence that the person has exhibited behavior during the person's release that indicates to a reasonable person that the person poses a danger to society that warrants the person's

immediate return to custody. The person may be held in custody pending a determination of all facts surrounding the alleged offense, violation of a rule or condition of release, or dangerous behavior. A designated agent of the director acts independently from a parole officer and must receive specialized training as determined by the director. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and detain and house the prisoner until a parole panel orders the return of the prisoner to the institution from which he was released. Pending hearing, as hereinafter provided, upon any charge of parole violation, ineligible release, or violation of the conditions of mandatory supervision, a prisoner returned to custody shall remain incarcerated. If the director, a board member, or a designated agent of the director or the board is otherwise authorized to issue a warrant under this subsection, the division may instead issue to a prisoner a summons requiring the prisoner to appear for a hearing under Section 14 of this article. The summons must state the time, place, date, and purpose of the hearing.

The amendment was read and was adopted by a viva voce vote.

HB 1112 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1112 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1112** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

HB 1112 was read third time and was passed by a viva voce vote.

(Senator Carona in Chair)

HOUSE BILL 906 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 906, Relating to approval by a lienholder required for payment of an insurance claim; providing a civil penalty.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 906**, Section 1, by inserting the word "business" after "14th" and before "day".

The amendment was read and was adopted by a viva voce vote.

HB 906 as amended was passed to third reading by a viva voce vote.

(President in Chair)

HOUSE BILL 906 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 906** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

HB 906 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 679 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 679, Relating to the use of a portion of the sales and use tax revenue collected by certain metropolitan rapid transit authorities for county and municipal road and bridge purposes.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 679 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 679** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

CSSB 679 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate a group of fourth-grade students and their teachers from Williams Elementary School of Austin.

The Senate welcomed its guests.

HOUSE BILL 2832 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2832, Relating to the authority of certain counties to impose a county hotel occupancy tax.

The bill was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Galloway, Moncrief, and Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 2832 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2832** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Galloway, Moncrief, Ogden.

Absent-excused: Luna.

HB 2832 was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

HOUSE BILL 3043 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3043, Relating to the authority of certain counties to impose a hotel occupancy tax.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 3043 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3043** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Harris, Lindsay, Lucio, Madla, Nelson, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Galloway, Haywood, Moncrief, Nixon, Ogden.

Absent-excused: Luna.

HB 3043 was read third time and was passed by the following vote: Yeas 24, Nays 6. (Same as previous roll call)

CAPITOL PHYSICIAN

The "Doctor for the Day," Dr. David Watson of Yoakum, was introduced to the Senate by Senator Armbrister.

The Senate expressed appreciation and gratitude to Dr. Watson for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

(Senator Truan in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1840 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1840, Relating to prohibiting certain prosecuting attorneys from running for an elected judicial office.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Fraser asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1840 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1840** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Fraser.

Absent-excused: Luna.

CSSB 1840 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Fraser, Moncrief, and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2542 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 2542, Relating to the regulation of parks and wildlife; providing penalties.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2542** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 1.012. ~~PUBLIC~~ **[PRIVATE]** FRESH WATER. Any ~~public~~ freshwater lake, river, creek, or bayou in this state contained in any survey of private land may not be sold but shall remain open to the public. ~~The~~ **[If the]** Parks and Wildlife Department ~~[stocks the water with fish, it]~~ is authorized to protect the fish **in public waters** under rules as it may prescribe.

SECTION 2. Section 1.101(1), Parks and Wildlife Code, is amended to read as follows:

(1) "Hunt" means ~~capture, trap, [seek or pursue with intent to] take, or kill, or [and includes take, kill, and]~~ an attempt to **capture, trap, take, or kill.**

SECTION 3. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0181 to read as follows:

Sec. 11.0181. EMPLOYEES AS EDUCATORS AND OUTREACH PROPONENTS. (a) Employees of the department through education and outreach shall:

(1) expand the wise use and conservation of fish and wildlife resources; and

(2) increase the participation in outdoor recreation.

(b) The department may use money from any of the department's special accounts to pay for education and outreach activities performed by department employees or to provide grants for education and outreach activities to be performed by other entities.

SECTION 4. Section 11.027, Parks and Wildlife Code, is amended by adding Subsection (e) to read as follows:

(e) The commission by rule may establish and provide for the collection of a fee for entering, reserving, or using a facility or property owned or managed by the department.

SECTION 5. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0272 to read as follows:

Sec. 11.0272. PUBLIC FISHING AND SPECIAL EVENTS DRAWING; FEES. (a) The department may conduct public drawings to select applicants for public fishing or other special events privileges. The department may charge each person who participates in the drawing a nonrefundable participation fee in addition to any fee for issuing a permit or fishing license. The participation fee shall be set by the commission in an amount sufficient to pay the costs of operating the drawing.

(b) The commission may approve participation fees, not to exceed \$25 per species or event for each participant on an application, in drawings for special fishing or other special programs, packages, or events the costs of which exceed the costs of operating the drawing only if the receipts from fees charged are designated for use in the management and restoration efforts of the specific fishery or resource program implementing each special fishing or other special program, package, or event.

SECTION 6. Section 11.033, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.033. USE OF GAME, FISH, AND WATER SAFETY ACCOUNT. Money in the game, fish, and water safety account may be used for the following purposes:

- (1) enforcement of fish, shrimp, and oyster laws, game laws, and laws pertaining to sand, shell, and gravel;
- (2) dissemination of information pertaining to marine life, wild animal life, wildlife values, and wildlife management;
- (3) scientific investigation and survey of marine life for the better protection and conservation of marine life;
- (4) establishment and maintenance of fish hatcheries, fish sanctuaries, tidal water fish passes, wildlife management areas, and public hunting grounds;
- (5) propagation and distribution of marine life, game animals, and wild birds;
- (6) protection of wild birds, fish, and game;
- (7) purchase, repair, and operation of boats and dredges;
- (8) research, management, and protection of the fish and wildlife resources of this state, including alligators and fur-bearing animals;
- (9) salaries of employees and other expenses necessary to carry out the duties of the department under laws relating to fish, shrimp, oysters, game, water safety, and sand, shell, and gravel;
- (10) expansion and development of additional opportunities of hunting and fishing in state-owned land and water;
- (11) removing rough fish from public water;
- (12) ~~construction and maintenance of artificial reefs under Section 12.016 of this code;~~
- ~~[(13)]~~ administration and enforcement of the water safety laws as set out in Chapter 31 ~~[of this code];~~
- (13) ~~[(14)]~~ purchasing all necessary forms and supplies, including reimbursement of the department for any material produced by its existing facilities or work performed by other divisions of the department;
- (14) ~~[(15)]~~ purchase, construction, and maintenance of boat ramps on or near public waters as provided in Chapter 31 ~~[of this code];~~
- (15) ~~[(16)]~~ resource protection activities; and
- (16) ~~[(17)]~~ any other use provided by law.

SECTION 7. Section 12.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.010. NOXIOUS VEGETATION PROGRAM. The department may contract with a person not employed by the department or use the services of department personnel for the control ~~[eradication]~~ of noxious vegetation in ~~[from]~~ the water of this state.

SECTION 8. Section 12.013, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.013. POWER TO TAKE WILDLIFE. An employee of the ~~[The]~~ department acting within the scope of the employee's authority may take, transport, release, and manage any of the wildlife and fish in this state for

investigation, propagation, distribution, education, or scientific purposes. [~~It is a defense in any prosecution of an employee of the department for a violation of any law for the protection of wildlife or fish that the employee was acting within the scope of this authority.~~]

SECTION 9. Sections 12.114(b) and (c), Parks and Wildlife Code, are amended to read as follows:

(b) If the person is a resident as defined by Subdivision (1) of Section 42.001 of this code, "driver's license" and "personal identification certificate" have the meanings assigned [provided] by Chapter 521, Transportation Code [Subdivisions (1) and (4), Section 1, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes)].

(c) If the person is a nonresident as defined by [~~Subdivision (3) of~~] Section 42.001 [~~of this code~~], "driver's license" and "personal identification certificate" mean those documents that are similar to those defined in Subsection (b) [~~of this section~~] and that are issued by the agency in the state or country of which the person is a resident that is authorized to issue driver's licenses or personal identification certificates.

SECTION 10. Section 12.404, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.404. CLASS A PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor shall be punished by:

- (1) a fine of not less than \$500 nor more than \$4,000 [~~\$2,000~~];
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and imprisonment.

SECTION 11. Section 12.405, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.405. CLASS B PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor shall be punished by:

- (1) a fine of not less than \$200 nor more than \$2,000 [~~\$1,000~~];
- (2) confinement in jail for a term not to exceed 180 days; or
- (3) both such fine and imprisonment.

SECTION 12. Section 12.407, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.407. PARKS AND WILDLIFE CODE FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code felony shall be punished by confinement in the institutional division of the Texas Department of Criminal Justice [~~Corrections~~] for any term of not more than 10 years or less than two years.

(b) In addition to imprisonment, an individual adjudged guilty of a Parks and Wildlife Code felony may be punished by a fine of not less than \$2,000 nor more than \$10,000 [~~\$5,000~~].

SECTION 13. Section 12.409, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.409. SEPARATE OFFENSES. Each fish, bird, animal, reptile, or amphibian or part of a fish, bird, animal, reptile, or amphibian taken,

possessed, killed, left to die, imported, exported, offered for sale, sold, purchased, attempted to be purchased, or retained in violation of any provision of this code or a proclamation or regulation adopted under this code constitutes a separate offense.

SECTION 14. Section 12.505, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.505. VIOLATION OF SUSPENSION OR REVOCATION. A person who engages in an activity requiring a permit or license during the time for which such license or permit has been suspended or revoked commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

SECTION 15. Section 13.001(b), Parks and Wildlife Code, is amended to read as follows:

(b) The commission shall establish a classification system for state parks and wildlife management areas that categorizes wildlife management areas, parks, or a portion of parks as wildlife ~~[game]~~ management areas, recreational areas, natural areas, or historical areas.

SECTION 16. Section 13.016(b), Parks and Wildlife Code, is amended to read as follows:

(b) Convicts working in connection with lands under the control or jurisdiction of the department ~~[a state park]~~ remain under the control of the Texas Department ~~[Board]~~ of Criminal Justice ~~[Corrections]~~ and are considered as serving their terms in the penitentiary.

SECTION 17. Section 13.019, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.019. FACILITY ~~[CAMPSITE]~~ RESERVATION FEE. The department may permit the advance reservation of a facility, lodging, or campsite at a state park and require the payment of a fee by a person making the reservation. ~~[If the reservation is cancelled by 72 hours prior to the day the site is first to be occupied under the reservation, the reservation fee shall be refunded. If the reservation is confirmed by the person's arriving at the park, the reservation fee shall be applied to the first day's user fee. No user fee may be required in advance as part of the reservation procedure.]~~

SECTION 18. The heading to Chapter 23, Parks and Wildlife Code, is amended to read as follows:

CHAPTER 23. NATIONAL PARKS, NATIONAL SEASHORES,
AND OTHER FEDERAL LANDS ~~[FORESTS]~~

SECTION 19. Subchapter D, Chapter 23, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER D. FEDERAL LANDS
~~[DAVY CROCKETT NATIONAL FOREST]~~

Sec. 23.041. AGREEMENTS FOR WILDLIFE MANAGEMENT. ~~[(a)]~~
The department may agree with the proper agency of the United States for the protection and management of wildlife resources and for restocking desirable species of wildlife on federal lands in the state ~~[in portions of the Davy Crockett National Forest, in Houston and Trinity counties, that can be designated by a natural boundary. A natural boundary may be a road, lake, stream, canyon, rock, bluff, island, or other natural feature].~~

~~[(b) No agreement under this section may cover more than 40,000 acres at any one time during any five-year period.]~~

Sec. 23.042. WILDLIFE RESOURCES DEFINED. In this subchapter, "wildlife resources" means all wild ~~[kinds of]~~ birds, wild animals, and aquatic animal life ~~[fish]~~.

Sec. 23.043. HUNTING AND FISHING REGULATIONS. The commission, under Chapter 61 or Subchapter E, Chapter 81, may provide for open seasons for hunting and fishing on federal lands for which the department has entered into a wildlife management agreement under this subchapter ~~[promulgate regulations applicable to the Davy Crockett National Forest, in Houston and Trinity counties, to:~~

~~[(1) prohibit hunting and fishing for periods of time as necessary to protect wildlife;~~

~~[(2) provide open seasons for hunting and fishing;~~

~~[(3) provide limitations on the number, size, kind, and sex of wildlife that may be taken; and~~

~~[(4) prescribe the conditions under which wildlife may be taken].~~

Sec. 23.044. PENALTY. A person who violates any rule or regulation of the commission adopted under this subchapter or who hunts or fishes on federal lands included in a wildlife management agreement under this subchapter ~~[in the Davy Crockett National Forest]~~ at any time other than the open season commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 20. Section 31.003(1), Parks and Wildlife Code, is amended and Section 31.003(14), Parks and Wildlife Code, as amended by Chapters 450 and 739, Acts of the 73rd Legislature, Regular Session, 1993, is amended and reenacted to read as follows:

(1) "Boat" means a vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer~~[-and manufactured or used primarily for noncommercial use]~~.

(14) "Personal watercraft" means ~~[a vessel of]~~ a type of motorboat ~~that [which]~~ is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

SECTION 21. Section 31.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.004. APPLICATION OF CHAPTER. The provisions of this chapter apply to all public water of this state and to all vessels ~~[watercraft navigated or moving]~~ on ~~[the]~~ public water. Privately owned water is not subject to the provisions of this chapter.

SECTION 22. Section 31.021(b), Parks and Wildlife Code, is amended to read as follows:

(b) No person may operate or give permission for the operation of any vessel, or dock, moor, or store a vessel owned by the person, on the water of this state unless:

(1) the vessel is numbered as required by this chapter;

(2) ~~[-unless]~~ the certificate of number awarded to the vessel is in full force and effect; ~~[-]~~ and

(3) ~~unless~~ the identifying number set forth in the certificate is properly displayed on each side of the bow of the vessel.

SECTION 23. Section 31.129(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person who violates or fails to comply with a rule of the Texas ~~Natural Resource Conservation Commission~~ ~~[Department of Water Resources]~~ concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code misdemeanor. A separate offense is committed each day a violation continues.

SECTION 24. Section 41.003(b), Parks and Wildlife Code, is amended to read as follows:

(b) An agreement must provide that ~~a resident~~ ~~[residents]~~ of the border state who ~~has~~ ~~[have]~~ a ~~[commercial or]~~ sport fishing license or a hunting license issued by the border state may fish or hunt migratory waterfowl on rivers and lakes of the common border, and ~~a Texas resident~~ ~~[residents]~~ holding ~~a Texas license is~~ ~~[licenses are]~~ extended equal privileges. ~~A person who holds a nonresident sport fishing license or a nonresident hunting license issued by this state or a border state may be extended the same privileges as those extended a resident license holder under this subsection.~~

SECTION 25. Section 41.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 41.004. RECIPROCAL AGREEMENTS PROCLAIMED. ~~An [The commission may approve any] agreement under Section 41.003 is not effective until the commission [of this code] by proclamation has approved it. [A proclamation becomes effective 30 days after the day it is issued or 30 days after the agreement has been lawfully accepted by the bordering state, whichever is later.]~~

SECTION 26. Section 41.006(c), Parks and Wildlife Code, is amended to read as follows:

(c) Regulations adopted by the commission or issued by the director, when authorized by the commission to issue regulations, take effect ~~20~~ ~~[30]~~ days after their adoption or issuance ~~or as otherwise specified in the regulations.~~

SECTION 27. Section 42.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.001. DEFINITIONS. In this chapter:

(1) "Resident" means:

(A) an individual who has resided continuously in this state for more than six months immediately before applying for a hunting license;

(B) a member of the United States armed forces on active duty;

(C) a dependent of a member of the United States armed forces on active duty; or

(D) a member of any other category of individuals that the commission by regulation designates as residents.

(2) "Nonresident" means an individual who is not a resident.

(3) "Carcass" means the ~~dead~~ body of a ~~dead deer or antelope, as listed in Section 63.001(a), that has not been processed more than by quartering~~ ~~[minus the offal and inedible organs, or the trunk with the limbs and head attached, with or without the hide].~~

(4) "Final destination, [destination]" for a carcass or wild turkey or any part of a carcass or wild turkey, means:

(A) the permanent residence of the hunter;

(B) ~~the permanent residence of any other person receiving the carcass or wild turkey or the part of a carcass or wild turkey; [a dead wild turkey, deer carcass, or any part of a deer carcass,]~~ or

(C) a cold storage or [commercial] processing facility ~~[plant after the carcass or turkey has been finally processed].~~

(5) "Final processing," for a carcass or wild turkey, means the cleaning of the dead animal for cooking or storage purposes. For a carcass, the term also includes the processing of the animal more than by quartering.

(6) "Cold storage or processing facility" means a stationary facility designed and constructed to store or process game animals and game birds.

(7) "Wildlife resource document" means a document prescribed by the department, other than a tag or permit, that allows a person to give, leave, receive, or possess any species of legally taken game bird or game animal, or part of a legally taken game bird or game animal, if the game bird or game animal is otherwise required to have a tag or permit attached or is protected by a bag or possession limit.

(8) "Quartering" means the processing of an animal into not more than two hindquarters each having the leg bone attached to the hock and two forequarters each having the leg portion to the knee attached to the shoulder blade. The term also includes removal of two back straps and trimmings from the neck and rib cage.

SECTION 28. Section 42.018, Parks and Wildlife Code, is amended by amending Subsections (a) and (c) and adding Subsections (d)-(g) to read as follows:

(a) Except as provided by Subsection (d) or commission rule, no [No] person may possess the carcass of a ~~[wild]~~ deer ~~[at any time]~~ before the carcass has been finally processed ~~at a [and delivered to the]~~ final destination unless there is attached to the carcass a properly executed deer tag from a hunting license provided by the department and issued to the person who killed the deer.

(c) If the deer's head is severed from the carcass, the properly executed tag must remain with the carcass.

(d) A wildlife resource document completed by the person who killed the deer must accompany the head or other part of the deer not accompanied by a tag if at any time before the carcass is finally processed the head or other part of the deer no longer accompanies the carcass. If a portion of the carcass is divided among persons and separated and the person who killed the deer retains a portion of the carcass, that person shall retain the tag with the portion of the carcass retained by that person. A wildlife resource document shall be retained with the head of a deer that is not kept with the carcass until the head is delivered to the owner after taxidermy or, if not treated by a taxidermist, until delivered to a final destination.

(e) Final processing for a deer carcass may occur only at a final destination.

(f) This section does not prohibit a person before delivering a deer carcass to a final destination from removing and preparing a part of the deer if the removal and preparation occur immediately before the part is cooked or consumed.

(g) A landowner or the landowner's [his] agent operating under a wildlife management plan approved by the department is, if authorized by the commission, exempt from the tag requirements of this section.

SECTION 29. Section 42.0185, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as provided by commission rule, no [No] person may possess a [dead] wild turkey at any time after the turkey is killed and before it has been finally processed at a [and delivered to the] final destination unless there is attached to the [dead wild] turkey a properly executed turkey tag from a hunting license provided by the department and issued to the person who killed the turkey.

(c) A wildlife resource document completed by the person who killed the turkey must accompany a part of the turkey if at any time before the turkey reaches a final destination the part of the turkey no longer accompanies the tagged turkey and is possessed by the person who killed the turkey or is given to, left with, or possessed by another person, including a taxidermist.

(d) This section does not prohibit a person before delivering a wild turkey to a final destination from preparing part of the turkey immediately before cooking and consuming the part.

SECTION 30. Section 42.019, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.019. POSSESSION OF CERTAIN PARTS OF ANTELOPE [DEER]. (a) Except as provided by Subsection (c), no [No] person may possess the carcass of an antelope before it has been finally processed at a final destination unless there is attached to the carcass an antelope permit provided by the department that is executed legibly, accurately, and completely by the person who killed the antelope [a wild deer with the head removed unless the carcass has been finally processed and delivered to the final destination].

(b) If the antelope's head is severed from the carcass, the properly executed permit must remain with the carcass. [No person, other than the person who killed the deer, may receive or possess any part of a deer without a legible hunter's document attached to the carcass or part of the deer.]

(c) A wildlife resource document completed by the person who killed the antelope must accompany the head or other part of the antelope not accompanied by a permit if at any time before the carcass is finally processed the head or other part of the antelope no longer accompanies the carcass. If a portion of the carcass is divided among persons and separated and the person who killed the antelope retains a portion of the carcass, that person shall retain the permit with the portion of the carcass retained by that person. A wildlife resource document shall be retained with the head of an antelope that is not kept with the carcass until the head is delivered to the owner after taxidermy or, if not treated by a taxidermist, until delivered to a final

destination. ~~[A hunter's document is an instrument signed and executed by the person who killed the deer and must contain:~~

~~[(1) the name and address of the person who killed the deer;~~
~~[(2) the number of the hunting license of the person who killed the deer;~~

~~[(3) the date on which the deer was killed; and~~

~~[(4) the name of the ranch and the county where the deer was killed.]~~

(d) Final processing for an antelope carcass may occur only at a final destination.

(e) This section does not prohibit a person before delivering an antelope carcass to a final destination from removing and preparing a part of the antelope if the removal and preparation occur immediately before the part is cooked and consumed. [A hunter's document shall remain with any part of the deer until it is finally processed and delivered to the final destination.]

SECTION 31. Section 43.0721, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) No person may release banded pen-reared birds under this subchapter ~~[and receive as a guest for pay or other consideration an individual engaged in hunting;]~~ unless the person holds a valid private bird hunting area license.

(c) A person is not required to hold a hunting lease license issued under Subchapter D to hunt banded pen-reared birds released under the authority of this subchapter.

SECTION 32. Section 43.075(d), Parks and Wildlife Code, is amended to read as follows:

(d) The band must remain on each bird killed until the bird is taken to the permanent residence of the hunter, the permanent residence of another person receiving the bird, or a cold storage or processing facility unless ~~[a final destination. It is a defense to prosecution under this subsection if]~~ the name and identification number of the licensee has been stamped or printed on the box, wrapping, or package containing the carcass of a bird that has been processed and possessed, shipped, or transported without the band attached.

SECTION 33. Section 43.154(d), Parks and Wildlife Code, is amended to read as follows:

(d) No state permit is required to authorize a person to kill ~~[authorizing the killing of]~~ migratory ~~[game]~~ birds protected by the Federal Migratory Bird Treaty Act if the person has obtained ~~[may be issued unless the applicant has received]~~ a permit authorizing that activity from the United States Department of the Interior or the United States Department of Agriculture; ~~Fish and Wildlife Service. No permit may be issued for the taking of wildlife protected under Chapter 68 of this code (Endangered Species)].~~

SECTION 34. Section 43.201(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (c) or (d) ~~[of this section]~~, no person may hunt ~~[wild]~~ deer, ~~[bear,]~~ turkey, or javelina (collared peccary) during an open archery season provided by law or by the proclamations of the commission and during which season only crossbows used by hunters with upper limb disabilities and longbows, recurved bows, and compound bows ~~[and arrows]~~ may be used unless the person has acquired an archery hunting

stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

SECTION 35. Section 43.203, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.203. HUNTING LICENSE REQUIRED. The purchase or possession of an archery hunting stamp does not permit a person to hunt ~~[wild]~~ deer, ~~[bear,]~~ turkey, or javelina without the license required by Chapter 42 ~~[of this code]~~ or by any means or methods not allowed by law.

SECTION 36. Section 43.355(b), Parks and Wildlife Code, is amended to read as follows:

(b) A scientific breeder's permit is valid only during the yearly period for which the permit is issued without regard to the date on which the permit is acquired [expires one year from the date of issuance]. Each yearly period begins on September 1 or on another date set by the commission and extends through August 31 of the next year or another date set by the commission.

SECTION 37. Section 43.356(b), Parks and Wildlife Code, is amended to read as follows:

(b) The scientific breeder shall place a suitable permanent ~~[metal]~~ tag bearing the scientific breeder's [his] serial number on the ear of each white-tailed deer or mule deer possessed [held in captivity or sold] by the scientific breeder and shall place on the white-tailed deer or mule deer any other identification marking prescribed by the commission.

SECTION 38. Section 43.357(b), Parks and Wildlife Code, is amended to read as follows:

(b) The commission may make regulations governing:

(1) the possession of white-tailed deer and mule deer for scientific, management, and propagation purposes; and

(2) the recapture of lawfully possessed white-tailed deer or mule deer that have escaped from a facility of a scientific breeder.

SECTION 39. Section 43.358, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.358. INSPECTION. An authorized employee of the department may inspect at any time and without warrant;

(1) any pen, coop, or enclosure holding white-tailed deer or mule deer; or

(2) any records required to be maintained under Section 43.359(a).

SECTION 40. Section 43.359, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.359. REPORTS. ~~(a) A [The holder of a] scientific breeder [breeder's permit] shall maintain an accurate record [file with the department a report showing the number] of white-tailed deer and mule deer acquired, purchased, propagated, sold, or disposed of and any other information required by the department that reasonably relates to the regulation of scientific breeders [possessed under the permit and their disposition]. The record shall be maintained on a form provided by the department. [The report shall also give the results of any research conducted under the permit and must be filed before the 15th day after the date on which the permit expires.]~~

(b) A scientific breeder shall report the information maintained under Subsection (a) to the department in the time and manner required by commission proclamation.

SECTION 41. Section 43.362, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) ~~Except as provided by Subchapter C, Chapter 43, no~~ [No] person may purchase or accept in this state a live white-tailed deer or mule deer unless the person obtains a permit for purchasing from the department and:

(1) the white-tailed deer or mule deer is properly marked as [bears a tag] required by Section ~~43.356(b)~~ [43.356] of this code ~~[and is delivered or sold by a scientific breeder]~~; or

(2) the white-tailed deer or mule deer is delivered by a common carrier from outside this state.

(c) No person may release into the wild a white-tailed deer or mule deer unless all visible markings required by Section 43.356(b) have been removed.

SECTION 42. Section 43.363(a), Parks and Wildlife Code, is amended to read as follows:

(a) During an open season for taking the white-tailed deer or mule deer or during a period of 10 days before an open season, no [No] scientific breeder may release into the wild or sell or ship to a [another] person other than a person holding a scientific breeder's permit, a white-tailed deer or mule deer and no person in this state, other than a scientific breeder, may purchase from a scientific breeder in this state a white-tailed deer or mule deer ~~[during an open season for taking the white-tailed deer or mule deer or during a period of 10 days before an open season]~~ unless the scientific breeder:

(1) has removed immediately above the pedicel the antlers of a male white-tailed deer or mule deer to be sold or shipped ~~[to another person]; and~~

(2) has given written notice of the sale to ~~[a game warden commissioned by]~~ the department ~~[who operates in the county of sale;~~

~~[(3) has given written notice of the shipment to a game warden commissioned by the department who operates in the county of origin and one who operates in the county of delivery; and~~

~~[(4) has received written approval for the sale and shipment from the game wardens required to be notified under this section].~~

SECTION 43. Section 43.365, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.365. PROHIBITED ACTS. It is an offense if a scientific breeder:

(1) takes, traps, or captures or attempts to take, trap, or capture white-tailed deer or mule deer from the wild;

(2) allows the hunting or killing of a white-tailed deer or mule deer held in captivity under the provisions of this subchapter; or

(3) fails to furnish to a game warden commissioned by the department records required to be maintained under Section 43.359(a) ~~[information as to the source from which white-tailed deer or mule deer held in captivity were derived].~~

SECTION 44. Section 43.522(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department or its agent may issue a conservation permit to any person on the payment to the department or agent of a fee in an amount set by the commission. ~~[The fee charged for a conservation permit may not exceed the amount charged by the department for a combination hunting and fishing license under Section 50.002 of this code.]~~

SECTION 45. Subchapter P, Chapter 43, Parks and Wildlife Code, is amended by adding Section 43.555 to read as follows:

Sec. 43.555. PENALTIES. A person who violates this subchapter or a commission rule issued under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 46. Chapter 43, Parks and Wildlife Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. DEER MANAGEMENT PERMITS

Sec. 43.601. PERMIT FOR DEER MANAGEMENT. (a) The department may issue a permit for the management of the wild white-tailed deer population on acreage enclosed by a fence capable of retaining white-tailed deer (under reasonable and ordinary circumstances) and capable of preventing entry by a white-tailed deer.

(b) The deer managed under the permit remain the property of the people of the state, and the holder of the permit is considered to be managing the population on behalf of the state.

Sec. 43.602. MANAGEMENT PLAN. (a) The holder of a deer management permit must annually submit a deer management plan for approval or disapproval of the department. The management plan must provide for specific management practices to be applied to the deer population on the acreage, which may include, in addition to other practices:

(1) the temporary detention within an enclosure on the acreage covered by the permit of wild white-tailed deer for the purpose of propagation with other wild deer, and the release of those deer on that acreage;

(2) the killing of wild deer in open seasons established by the commission in a number set in the management plan; or

(3) the killing of wild deer during a special season having a special bag limit established by the commission for this permit.

(b) A management plan approved by the department must be consistent with the regulatory responsibilities of the commission under Chapter 61.

(c) A management plan may not authorize the killing of wild deer within an enclosure designed for the temporary detention of wild deer under Subsection (a)(1).

Sec. 43.603. CONDITIONS; DURATION; FEE. (a) A permit issued under this subchapter is subject to conditions established by the commission, including conditions governing:

(1) the number of deer that may be killed on the property by a single person;

(2) the number and type of deer that may be killed or taken under the permit; and

(3) the number, type, and length of time that deer may be temporarily detained in an enclosure.

(b) The permit is valid for a period prescribed by the department of not less than one year.

(c) The department shall set a fee for the issuance or renewal of a permit in an amount not to exceed \$1,000.

Sec. 43.604. INSPECTION. An authorized employee of the department may inspect at any time without warrant the records required by Section 43.605 and the acreage for which the permit is issued for the purpose of determining the permit holder's compliance with the management plan.

Sec. 43.605. RECORDS. The holder of a permit issued under this subchapter shall maintain, in a form prescribed by the department, an accurate record showing:

(1) the number of white-tailed deer taken during the general open seasons and during any special seasons;

(2) the number of white-tailed deer temporarily detained and released during the permit period; and

(3) any other information required by the department that reasonably relates to the activities covered by the permit.

Sec. 43.606. APPLICATION OF GENERAL LAWS. Except as expressly provided by this subchapter and the terms and conditions of the permit and management plan, the general laws and regulations of this state applicable to white-tailed deer apply to deer on the acreage covered by the permit. This subchapter does not restrict or prohibit the use of high fences on acreage not covered by a management plan.

Sec. 43.607. PENALTY. (a) A person commits an offense if the person:

(1) violates a provision of this subchapter or a regulation of the department adopted under this subchapter;

(2) violates a condition of permit imposed under Section 43.603(a);

(3) fails to maintain records required by Section 43.605; or

(4) kills or allows to be killed a deer temporarily detained under Section 43.602(a)(1).

(b) An offense under Subsections (a)(1)-(3) is a Class C Parks and Wildlife Code misdemeanor.

(c) An offense under Subsection (a)(4) is a Class A Parks and Wildlife Code misdemeanor.

SECTION 47. Section 44.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.012. SALE DURING OPEN SEASON. A game animal held under the authority of a license issued under this subchapter may not be sold, traded, transferred, or shipped to any person in any county [No game breeder may sell or ship to another person in this state any antelope or collared peccary, and no person in this state may purchase from a game breeder in this state or any other state any antelope or collared peccary] during an open season in the county of destination for taking the game animal or during a period of 10 days before the [and after an] open season.

SECTION 48. Section 45.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.001. LICENSE REQUIRED. No [(a) Except as provided in Subsection (b) of this section, no] person may possess game birds in captivity for the purpose of propagation or sale [engage in the business of propagating

game birds] without first acquiring the proper license authorized to be issued under this chapter.

~~[(b) A person is not required to have a license issued under this chapter if he possesses not more than 12 game birds for personal use only.]~~

SECTION 49. Section 45.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.003. TYPES OF LICENSES; FEES. (a) A class 1 commercial game bird breeder's license entitles the holder to possess ~~[engage in the business of propagating game birds for sale or holding game birds]~~ in captivity more than 1,000 game birds. The fee for a class 1 ~~[commercial game bird breeder's]~~ license is \$100 or an amount set by the commission, whichever amount is more.

(b) A class 2 commercial game bird breeder's license entitles the holder to ~~[engage in the business of propagating game birds for sale or holding game birds in captivity, except that the holder of a class 2 license may not]~~ possess in captivity not more than 1,000 game birds during any calendar year. The fee for a class 2 ~~[commercial game bird breeder's]~~ license is \$10 or an amount set by the commission, whichever amount is more.

SECTION 50. Section 45.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.006. SALES OF GAME BIRD CARCASSES OR PARTS OF A GAME BIRD. (a) No person may sell, offer for sale, or purchase the carcass or any part of a dead pen-raised game bird unless:

(1) the carcass or part is clearly stamped and marked by the stamp authorized by Subsection (b) ~~[of this section]~~; or

(2) the carcass or part is delivered to the purchaser and is accompanied by a document ~~[in a box, wrapping, or other container]~~ on which is printed or written the name, street address, and identification ~~[the serial]~~ number, if applicable, of the game bird breeder.

(b) Each holder of a license required by this chapter who offers for sale the carcass of a pen-raised game bird may acquire a rubber stamp which, when used, shows the identification ~~[serial]~~ number of the holder of the license.

SECTION 51. Section 45.0061, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.0061. SOURCE OF GAME BIRDS. A person who is not required to possess a commercial game bird breeder's license and who is in possession of a live game bird or part of a dead game bird ~~[under Subsection (b) of Section 45.001]~~ shall, on the request of a game warden commissioned by the department, furnish to the warden a receipt showing the name and street address of the person and the name and street address of ~~[information as to]~~ the source from which any live game bird or part of a dead game bird ~~[birds]~~ in the possession of the person was ~~[were]~~ derived. The receipt must also show the date of sale and the species and number of live game birds or parts of dead game birds acquired. The failure or refusal to comply with this section is a violation of this chapter.

SECTION 52. Section 45.009, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.009. EXCEPTIONS. (a) ~~[A person may purchase live pheasant from a commercial game bird breeder for any purpose.]~~

~~[(b)]~~ A commercial game bird breeder may process ~~[slaughter]~~ game birds for ~~[his]~~ personal consumption at any time.

~~(b) [(c)]~~ This chapter does not apply to a person holding a permit under Section 43.022 ~~[of this code]~~.

~~(c) [(d)]~~ Any person owning or operating a ~~[restaurant, hotel, boarding house, club, or other]~~ business where food is sold for consumption, including a restaurant, hotel, boarding house, or club, may sell game birds obtained from a legal source for consumption on the premises of the business.

SECTION 53. Sections 47.001(3)-(5), (9), and (16), Parks and Wildlife Code, are amended to read as follows:

(3) "Wholesale fish dealer" means a person who operates a place of business ~~[and buys]~~ for ~~[the purpose of]~~ selling, offering for sale, canning, preserving, processing, or handling for shipments or sale aquatic products to retail fish dealers, hotels, restaurants, cafes, consumers, or other wholesale fish dealers. The term does not include the holder of a bait-shrimp dealer's license.

(4) "Retail fish dealer" means a person who operates a place of business ~~[and buys]~~ for selling ~~[the purpose of sale or sells]~~ or offering ~~[offers]~~ for sale to a consumer aquatic products, other than aquatic products that are sold by restaurants for and ready for immediate consumption in individual portion servings and that ~~[which]~~ are subject to the limited sales or use tax. For purposes of this subsection, "consumer" does not include a wholesale fish dealer or a hotel, restaurant, cafe, or other retail fish dealer.

(5) "Bait dealer" means a person who catches and sells minnows, fish, shrimp, or other aquatic products for bait ~~[or transports for sale,]~~ or a place of ~~[who is engaged in the]~~ business where ~~[of selling]~~ minnows, fish, shrimp, or other aquatic products are sold, offered for sale, handled, or transported for sale for ~~[fish]~~ bait.

(9) "Place of business" means a permanent structure on land or a motor vehicle required to be registered under Section 502.002, Transportation Code ~~[2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes)]~~, where aquatic products or orders for aquatic products are received or where aquatic products are sold or purchased but does not include a boat or any type of floating device, a public cold storage vault, the portion of a structure that is used as a residence, or a vehicle from which no orders are taken or no shipments or deliveries are made other than to the place of business of a licensee in this state.

(16) "Aquatic product" means any live or dead, uncooked, fresh or frozen aquatic animal life.

SECTION 54. Section 47.003(d), Parks and Wildlife Code, is amended to read as follows:

(d) No person may be issued a commercial finfish fisherman's license unless the person files with the department at the time the person ~~[he]~~ applies for the license an affidavit containing statements that:

(1) ~~[not less than 50 percent of the applicant's gainful employment is devoted to commercial fishing;~~

~~[(2)]~~ the applicant is not employed at any full-time occupation other than commercial fishing; and

(2) ~~[(3)]~~ during the period of validity of the commercial finfish fisherman's license the applicant does not intend to engage in any full-time occupation other than commercial fishing.

SECTION 55. Section 47.004, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may adopt rules governing the issuance and use of a fishing guide license.

SECTION 56. Section 47.009(c), Parks and Wildlife Code, is amended to read as follows:

(c) A person who has an aquaculture [a fish farming] license for a Texas aquaculture facility under Section 134.011, Agriculture Code, is not required to obtain or possess a wholesale fish dealer's license if the person's business activities with regard to the sale of aquatic products [fish] involve aquatic products [fish] raised on the person's aquaculture facility [fish farm] only.

SECTION 57. Section 47.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.010. WHOLESALE TRUCK DEALER'S FISH LICENSE.

(a) The license fee for a wholesale truck dealer's fish license is \$250 for each truck or an amount set by the commission, whichever amount is more.

(b) A resident who holds a fish farm vehicle license under Section 134.012, Agriculture Code, is not required to obtain a license for the vehicle under this section if the vehicle is used with regard to the sale or transportation of only aquatic products raised on a licensed Texas aquaculture facility belonging to the owner of the vehicle.

SECTION 58. Section 47.011(c), Parks and Wildlife Code, is amended to read as follows:

(c) A person with an aquaculture [a fish farming] license for a Texas aquaculture facility under Section 134.011, Agriculture Code, is not required to obtain or possess a retail fish dealer's license if the person's business activities with regard to the sale of aquatic products [fish] involve aquatic products [fish] raised on the person's aquaculture facility [fish farm] only.

SECTION 59. Section 47.013(c), Parks and Wildlife Code, is amended to read as follows:

(c) A resident [person] who owns a vehicle licensed under Section 134.012, Agriculture Code, is not required to obtain a license for the vehicle under this section when the vehicle is used with regard to the sale or transportation of only aquatic products raised on a licensed Texas aquaculture facility [fish farm] belonging to the owner of the vehicle.

SECTION 60. Section 47.014, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) No person may engage in business [act] as a bait dealer unless the person [he] has obtained the appropriate [a] bait dealer's license.

(c) A person who has an aquaculture license for a Texas aquaculture facility under Section 134.011, Agriculture Code, is not required to obtain or

possess a bait dealer's license if the person's business activities with regard to the sale of aquatic products for bait involve only aquatic products raised on the person's aquaculture facility.

SECTION 61. Section 47.018(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person may bring into this state and deliver aquatic products for ~~[any]~~ commercial ~~purposes~~ ~~[purpose]~~ unless ~~the person~~ ~~[he]~~ has obtained a wholesale fish dealer's license, ~~[or]~~ a retail fish dealer's license, ~~or a bait dealer's license, as applicable,~~ issued under this subchapter.

SECTION 62. Section 47.0181(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person, except a commercial fisherman licensed to take aquatic products from Texas waters transporting the fisherman's own catch within this state, may transport aquatic products for commercial purposes, regardless of origin or destination, without an invoice containing the following information correctly stated and legibly written:

- (1) the invoice number;
- (2) the date of shipment;
- (3) the name and physical address of shipper;
- (4) the name and physical address of receiver;
- (5) the license number of shipper; and
- (6) the quantity of aquatic products contained in the shipment;

finfish by species ~~and by~~ ~~[;]~~ number ~~or~~ ~~[and]~~ weight, oysters by volume, and all other aquatic products by weight.

SECTION 63. Section 47.031(b), Parks and Wildlife Code, is amended to read as follows:

(b) All licenses and permits issued under the authority of Chapter 47 ~~[of this code]~~ may not be transferred to another person except that a license issued in the name of a business shall remain valid for the business location specified on the license or permit if a change of ownership and/or business name occurs. A license issued under the authority of Section 47.009, ~~[or]~~ 47.011, ~~[or]~~ 47.014, or 47.016 may be transferred to a new address if the business moves to another location. A license issued under the authority of Section ~~47.007,~~ 47.010, or 47.013 may be transferred to another vehicle ~~or vessel~~ or to a new owner of the same vehicle ~~or vessel~~. The commission, by regulation, may prescribe requirements necessary to clarify license and permit transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses and permits in this chapter and for duplicate license plates and duplicate or replacement licenses and permits.

SECTION 64. Section 49.001, Parks and Wildlife Code, is amended by adding Subdivision (3) to read as follows:

(3) "Falconry" means the practice of trapping, possessing, training, or flying a raptor for hunting purposes and includes the act of hunting by the use of a trained raptor.

SECTION 65. Section 49.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.002. PROHIBITED ACTS. (a) Except as provided in Subsection (b) ~~[of this section]~~, no person may take, capture, or possess, or

attempt to take or capture, any native raptors unless the person [he] has obtained a permit issued by the department [under this chapter].

(b) A nonresident may temporarily possess in this state or transport through this state any raptor if the person is authorized by state and federal permits to possess the raptor in the person's state of residence or has been issued a permit under Chapter 43 [person may collect and hold protected species of wildlife for scientific, zoological, and propagation purposes if he holds a permit issued by the department for that purpose].

SECTION 66. Section 49.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.003. RECIPROCITY [APPRENTICE FALCONER'S PERMIT]. A person in possession of a raptor under a license issued by another state who intends to establish residency in this state must apply to the department for a falconry permit not later than the 10th day after the date the person first moves a raptor into this state. A signed and notarized affidavit stating the person's intent to establish residency in this state must accompany the application. [The department may issue an apprentice falconer's permit to any person who:

(1) is at least 14 years of age;

(2) is sponsored by the holder of a general falconer's or a master falconer's permit;

(3) submits an application on forms prescribed by the department; and

(4) submits an original permit fee of \$30 or an amount set by the commission, whichever amount is more.]

SECTION 67. Section 49.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.010. HUNTING. (a) A resident possessing [The holder of] a falconry [valid] permit [issued under this chapter] and a [valid] hunting license may hunt by means of falconry [native species of wild birds, wild animals, and migratory game birds during the open season and may hunt unprotected species of wildlife].

(b) A nonresident may hunt by means of falconry if the nonresident possesses on the nonresident's person:

(1) a federal falconry permit;

(2) a falconry permit issued in the person's state of residence; and

(3) a nonresident hunting license and any applicable stamps.

(c) A person may hunt a bird or animal by means of falconry only during an open season provided for that bird or animal.

SECTION 68. Section 49.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.011. TRANSFER OR SALE OF RAPTORS. (a) Except as permitted in Subsections (b) and (c) [of this section], no person may buy, sell, barter, or exchange, or offer to buy, sell, barter, or exchange, a raptor in this state.

(b) The holder of a falconer's permit may transfer [with approval of the department, exchange] a raptor to [with] another holder of a falconer's permit or receive a raptor from another holder of a falconer's permit [if there is no consideration for the exchange other than the raptors exchanged].

(c) A [The] holder of a [~~general or master~~] falconer's permit who qualifies as prescribed by commission rule may [arrange for the] purchase [of legal] raptors [by correspondence or telephone] from any legal source and may sell captive-bred raptors to any person permitted to purchase captive-bred raptors [a lawfully permitted person in another state where the sale of raptors is lawful, provided, however, such raptors may not be resold in this state].

SECTION 69. Section 49.014, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.014. POWERS OF DEPARTMENT. The department may:

(1) prescribe [~~reasonable~~] rules [~~and regulations~~] for the taking, capture, possession, propagation, transportation, export, import, and sale of [taking and possessing] raptors, time and area from which raptors may be taken or captured, and species that may be taken or captured;

(2) provide standards for possessing and housing raptors held under a permit;

(3) prescribe annual reporting requirements and procedures;

(4) prescribe eligibility requirements and fees for and issue any falconry, raptor propagation, or nonresident trapping permit; and

(5) require and regulate the identification of raptors held by permit holders.

SECTION 70. Section 61.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.003. APPLICABILITY OF CHAPTER. This [Title 7 of this code prescribes the counties, places, and wildlife resources to which this] chapter applies to every county, place, and wildlife resource in the state, except as otherwise provided by this code.

SECTION 71. Section 61.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.005. DEFINITIONS. In this chapter:

(1) [~~"Hunt" includes take, kill, pursue, trap, and the attempt to take, kill, or trap.~~

[(2)] "Wildlife resources" means all wild [game] animals, wild [game] birds, and [marine animals, fish, and other] aquatic animal life.

(2) [(3)] "Depletion" means the reduction of a species below its immediate recuperative potential by any [~~deleterious~~] cause.

(3) [(4)] "Waste" means the failure to provide for the regulated harvest of surplus wildlife resources when that harvest would allow, promote, or optimize a healthy and self-sustaining population of a [supply of a species or one sex of a species in sufficient numbers that a seasonal harvest will aid in the reestablishment of a normal number of the] species.

[(5)] "Daily bag limit" means the quantity of a species of game that may be taken in one day.

[(6)] "Possession limit" means the maximum number of a species of game that may be possessed at one time.

SECTION 72. Section 61.022, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.022. TAKING WILDLIFE RESOURCES WITHOUT CONSENT OF LANDOWNER PROHIBITED. No person may hunt or [;] catch by any means or method [;] or possess a wildlife resource [~~game animal or game bird, fish, marine animal, or other aquatic life~~] at any time and at any place covered by this chapter unless the owner of the land or water, or the owner's agent, consents.

SECTION 73. Subchapter B, Chapter 61, Parks and Wildlife Code, is amended by adding Section 61.023 to read as follows:

Sec. 61.023. APPLYING CONTRACEPTIVES TO WILDLIFE RESOURCES. No person may intentionally apply contraceptives to any vertebrate wildlife resource unless the person first obtains written authorization from the department.

SECTION 74. Section 61.051, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.051. DUTY TO INVESTIGATE AND STUDY CERTAIN WILDLIFE RESOURCES. (a) The department shall conduct scientific studies and investigations of all species of game animals, game birds, and aquatic animal life [~~wildlife resources~~] to determine:

- (1) supply;
- (2) economic value;
- (3) environments;
- (4) breeding habits;
- (5) sex ratios; and
- (6) effects of [~~hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, and overpopulation; and~~]
[~~(7)~~] any [~~other~~] factors or conditions causing increases or decreases in supply.

(b) The studies and investigations may be made periodically or continuously.

(c) The commission shall make findings of fact based on the studies and investigations of the department.

SECTION 75. Section 61.052, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.052. GENERAL REGULATORY DUTY. (a) The commission shall regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life [~~wildlife resources~~] in or from the places covered by this chapter.

(b) The commission shall regulate the means, methods, [~~manners,~~] and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life [~~wildlife resources~~] in or from the places covered by this chapter.

SECTION 76. Section 61.053, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.053. OPEN SEASONS. The commission shall provide open seasons for the hunting, taking, or possession of game animals, game birds, or aquatic animal life [~~wildlife resources~~] if its investigations and findings of fact reveal that open seasons may be safely provided or if the threat of waste requires an open season to conserve game animals, game birds, or aquatic animal life [~~wildlife resources~~].

SECTION 77. Section 61.054, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.054. PROCLAMATIONS OF THE COMMISSION.

(a) Regulation of the hunting, taking, or possession of game animals, game birds, or aquatic animal life ~~[wildlife resources]~~ under this chapter shall be by proclamation of the commission.

(b) A proclamation of the commission authorizing the hunting, taking, or possession of game animals, game birds, or aquatic animal life ~~[wildlife resources]~~ must specify:

(1) the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life ~~[wildlife resources]~~ authorized to be hunted, taken, or possessed;

(2) the means or ~~[;]~~ method~~[-or-manner]~~ that may be used to hunt, take, or possess the game animals, game birds, or aquatic animal life ~~[wildlife resources]~~; and

(3) the region, county, area, body of water, or portion of a county where the game animals, game birds, or aquatic animal life ~~[wildlife resources]~~ may be hunted, taken, or possessed.

SECTION 78. Section 61.055(a), Parks and Wildlife Code, is amended to read as follows:

(a) If the commission finds that there is a danger of depletion or waste, it shall amend or revoke its proclamations to prevent the depletion or waste and to provide to the people the most equitable and reasonable privilege to hunt game animals or game birds or catch aquatic animal life ~~[pursue, take, possess, and kill wildlife resources]~~.

SECTION 79. Subchapter C, Chapter 61, Parks and Wildlife Code, is amended by adding Section 61.058 to read as follows:

Sec. 61.058. YOUTH HUNTING AND FISHING. (a) The commission may provide for special open seasons during which the taking and possession of game animals and game birds are restricted to persons under 17 years old.

(b) The commission may provide for special means and methods for the taking and possession of aquatic animal life by persons under 17 years old.

SECTION 80. Section 61.101(a), Parks and Wildlife Code, is amended to read as follows:

(a) Before a proclamation of the commission may be adopted, the department shall hold public hearings[:

~~[(1)]~~ in the county to be affected by the proclamation if the director or the director's ~~[his]~~ designee receives a petition for a public hearing signed by not less than 25 persons who reside in the county~~[-and~~

~~[(2) in at least five locations the director or his designee considers necessary to ensure public participation].~~

SECTION 81. Section 61.205(d), Parks and Wildlife Code, is amended to read as follows:

(d) The department may authorize the sale, trade, auction, or donation of ~~[A person may not sell or trade]~~ a bighorn sheep hunting permit if the proceeds of the sale, trade, auction, or donation are used to restore, protect, or manage bighorn sheep ~~[for anything of value].~~

SECTION 82. Section 62.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.005. HUNTING WITH LIGHT. ~~[(a)]~~ No person may hunt ~~a game~~ ~~[an]~~ animal or bird protected by this code with the aid of ~~[a headlight, hunting lamp, or other artificial light, including]~~ an artificial light that casts or reflects a beam of light onto or otherwise illuminates the game animal or bird, including the headlights of ~~[attached to]~~ a motor vehicle.

~~[(b) The possession of a headlight or hunting lamp used on or about the head when hunting at night between sunset and one-half hour before sunrise by a person hunting in an area where deer are known to range constitutes prima facie evidence that the person was violating this section.]~~

SECTION 83. Section 62.014(a)(2), Parks and Wildlife Code, is amended to read as follows:

(2) "Archery equipment" means a long bow, recurved bow, or compound bow ~~[that is capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards].~~

SECTION 84. Sections 62.014(b), (c), and (d), Parks and Wildlife Code, are amended to read as follows:

(b) The department may establish and administer a statewide hunter education program. The program must include but is not limited to instruction concerning:

(1) the safe handling and use of firearms, ~~[and]~~ archery equipment, and crossbows;

(2) wildlife conservation and management;

(3) hunting laws and applicable rules and regulations; and

(4) hunting safety and ethics, including landowners' rights.

(c) The department shall issue a certificate to a person who has successfully completed a hunter education course. The department shall prescribe the form of the certificate.

(d) If funds are available for its implementation the commission may establish a mandatory hunter education program and may require a person to have successfully completed a training course before the person may hunt with firearms, ~~[or]~~ archery equipment as defined in Subsection (a) of this section, or crossbows in Texas. If the certificate is so required, the person must possess the certificate or other evidence of completion of the program while hunting with firearms, ~~[or]~~ archery equipment as defined in Subsection (a) of this section, or crossbows. The commission may provide that residents or nonresidents who have successfully completed the same or a comparable hunter education course and possess a certificate or other evidence of completion have satisfied the requirements imposed under this subsection. The commission may establish a minimum age for participation in the program. Those persons who cannot participate in the hunter education program because they do not meet the minimum age or other requirements established by the commission can only hunt with firearms, ~~[or]~~ archery equipment as defined in Subsection (a) of this section, or crossbows in Texas if they are accompanied by a person who is 17 years of age or older and licensed to hunt in Texas. Additionally, a person under 17 years of age hunting with a person licensed to hunt in Texas who is 17 years of age or older is not required to have certification under this Act.

The commission may implement the program by age group. Persons who are 17 years of age or older on September 1, 1988, or on the date on which a mandatory hunter education course is implemented, whichever is later, are exempt from the requirements imposed under this subsection.

The department is responsible for offering mandatory hunter education courses that are accessible to those persons required to take this course. To this end, the department shall provide hunter education opportunities in each county of the state when a substantial number of residents request a class or at least once a year.

SECTION 85. Section 62.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.021. SALE OR PURCHASE OF CERTAIN GAME. (a) Except as provided by Subsection (c), no ~~[No]~~ person may sell, offer for sale, purchase, offer to purchase, or possess after purchase a wild bird, ~~[wild]~~ game bird, or ~~[wild]~~ game animal, dead or alive, or part of the bird or animal.

(b) This section applies only to a bird or animal protected by this code without regard to whether the bird or animal is taken or killed in this state.

(c) This section does not prohibit the sale of:

(1) a live game animal, a dead or live game bird, or the feathers of a game bird if the sale is conducted under authority of a license or permit issued under this code; or

(2) an inedible part, including the hide, antlers, bones, hooves, or sinew of a deer. [Subsection (a) of this section does not apply to deer hides.

~~[(d) The commission by proclamation shall authorize and regulate the sale, purchase, and possession after purchase of deer antlers.]~~

SECTION 86. Section 62.029, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.029. RECORDS OF GAME IN COLD STORAGE OR PROCESSING FACILITY. (a) As used in this section, "cold storage or processing facility" has the meaning assigned by Section 42.001 ~~["a public cold storage plant" is any plant in which game is stored for a person other than the owner of the plant].~~

(b) The owner, ~~[or]~~ operator, ~~or lessee~~ of a ~~[public]~~ cold storage ~~or processing facility~~ ~~[plant]~~ shall maintain a book containing a record of:

(1) the name, address, and hunting license number of each person who killed ~~[placing]~~ a game bird or game animal that is placed in the facility ~~[storage];~~

(2) the name and address of each person who places a game bird or game animal in the facility, if different from the person who killed the bird or animal;

(3) the number and kind of game birds or game animals placed in the facility ~~[storage]; and~~

(4) ~~[(3)]~~ the date on which each game bird or game animal is placed in the facility ~~[storage].~~

(c) The owner, operator, or lessee shall enter all information into the book as required by this section before placing in storage or processing any game animal or game bird.

(d) The cold storage or processing facility record book shall be kept at the facility and [by the owner or operator of a public cold storage plant] may be inspected by an authorized employee of the department during business hours or at any other reasonable time.

(e) Each cold storage or processing facility record book shall be kept at the facility until the first anniversary of the date of the last entry in the book.

SECTION 87. Section 62.030, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.030. POSSESSION OF GAME IN COLD STORAGE OR PROCESSING FACILITY. A person may place and maintain, or possess, in a cold storage or processing facility ~~[public or private storage plant, refrigerator, or locker]~~ lawfully ~~[taken or]~~ killed game birds and ~~[:]~~ game animals~~[: waterfowl, or migratory waterfowl]~~ not in excess of the number permitted to be possessed by law.

SECTION 88. Section 62.031, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.031. INSPECTIONS OF ~~[STORAGE]~~ FACILITIES.

(a) Authorized employees of the department may enter and inspect a ~~[public]~~ cold storage or processing facility ~~[plant]~~ or other place, including taxidermist shops and tanneries, where protected wildlife are stored.

(b) In this section "protected wildlife" means game animals, ~~[and]~~ game birds, ~~[and]~~ nongame animals, and nongame birds that are the subject of any protective law or regulation of this state or the United States.

(c) Inspections under this section may be made during normal business hours or at any other reasonable time ~~[when the facilities are open to the public generally but may include areas within a facility not generally open to the public].~~

SECTION 89. Section 62.082, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.082. TARGET RANGES AND MANAGED HUNTS. (a) The Board of Directors of the Lower Colorado River Authority may lease river authority land to be used on a nonprofit basis for a target rifle or archery range ~~[only and not for hunting]~~.

(b) A member of the boy scouts or the girl scouts or other nonprofit public service group or organization may possess and shoot a firearm, bow, and crossbow for target or instructional purposes under the supervision of a qualified instructor registered with and approved by the Lower Colorado River Authority on ranges designated by the Lower Colorado River Authority. ~~[This subsection does not permit hunting by any person.]~~

(c) The Board of Directors of the Lower Colorado River Authority may authorize lawful hunting on Lower Colorado River Authority lands, consistent with sound biological management practices.

(d) Section 62.081 does not apply to an employee of the Lower Colorado River Authority, a person authorized to hunt under Subsection (c), or a peace officer as defined by Article 2.12, Code of Criminal Procedure.

SECTION 90. Subchapter A, Chapter 63, Parks and Wildlife Code, is amended by adding Section 63.002 to read as follows:

Sec. 63.002. POSSESSION OF LIVE GAME ANIMALS. No person may possess a live game animal in this state for any purpose not authorized by this code.

SECTION 91. Section 64.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.002. PROTECTION OF NONGAME BIRDS. (a) Except as provided by ~~[in this section, Chapter 67, or Section 12.013 of]~~ this code, no person may:

(1) catch, kill, injure, pursue, or possess, dead or alive, or purchase, sell, expose for sale, transport, ship, or receive or deliver for transportation, a bird that is not a game bird;

(2) possess any part of the plumage, skin, or body of a bird that is not a game bird; or

(3) disturb or destroy the eggs, nest, or young of a bird that is not a game bird.

(b) European starlings, English sparrows, and ~~[grackles, ravens, red-winged blackbirds, cowbirds,]~~ feral rock doves (*Columba livia*)~~[, and crows]~~ may be killed at any time and their nests or eggs may be destroyed.

(c) A permit is not required to control yellow-headed, red-winged, rusty, or Brewer's blackbirds or all grackles, cowbirds, crows, or magpies when found committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in numbers and in a manner that constitutes a health hazard or other nuisance.

(d) Canaries, parrots, and other exotic nongame birds may be sold, purchased, and kept as domestic pets.

SECTION 92. Subchapter A, Chapter 64, Parks and Wildlife Code, is amended by adding Section 64.007 to read as follows:

Sec. 64.007. POSSESSION OF LIVE GAME BIRDS. No person may possess a live game bird in this state except as authorized by this code.

SECTION 93. Section 64.022, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.022. AUTHORITY OF COMMISSION ~~[DEPARTMENT]~~. The commission ~~[department]~~ shall provide the open season~~[:]~~ and means, methods, and devices for the hunting ~~[taking]~~ and possessing of migratory game birds and may delegate that authority to the executive director.

SECTION 94. Sections 64.024(b) and (c), Parks and Wildlife Code, are amended to read as follows:

(b) ~~[A regulation issued by the department must be incorporated in the minutes of the meeting at which it was adopted, and a copy of the regulation must be filed with the secretary of state and each county clerk and county attorney:~~

~~[(c)]~~ The commission may adopt an emergency regulation governing the hunting ~~[taking]~~ or possession of migratory game birds if the commission finds that an emergency condition affecting the supply or condition of migratory game birds exists.

SECTION 95. Section 64.026, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.026. PROHIBITED ACTS. No person may hunt or possess a migratory game bird by any means or method ~~[or device]~~ except as provided by regulation issued under this code ~~[subchapter]~~.

SECTION 96. Section 65.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.001. DEFINITIONS. In this chapter:

(1) "Alligator" means a living or dead American alligator (Alligator mississippiensis).

(2) ~~["Alligator buyer" means a person who buys alligators, alligator hides, or any part of an alligator.~~

~~[(3)]~~ "Alligator hunter" means a person who takes an alligator, an alligator egg, [dead or live alligators] or any part of an alligator.

(3) ~~[(4)]~~ "Possess" means the act of having in possession or control, keeping, detaining, restraining, or holding as owner or as agent, bailee, or custodian for another.

(4) ~~[(5)]~~ "Take" means the act of hooking, netting, snaring, trapping, pursuing, shooting, killing, ~~[or]~~ capturing, or collecting by any means or device and includes the attempt to take by the use of any method.

(5) ~~[(6)]~~ "Resident" means an individual who has resided continuously in this state during the [for more than] six months preceding the individual's application [immediately before applying] for any [an alligator hunter's or alligator buyer's] license or permit issued under this chapter.

(6) ~~[(7)]~~ "Nonresident" means an individual who is not a resident.

SECTION 97. Section 65.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.003. REGULATIONS. (a) The commission may regulate by proclamation the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator that the commission considers necessary to manage this species.

(b) The regulations of the commission under this chapter may provide for:

(1) permit application forms, fees, and procedures;

(2) hearing procedures;

(3) the periods of time when it is lawful to take, possess, sell, or purchase alligators, alligator hides, alligator eggs, or any part of an alligator; ~~[and]~~

(4) limits, size, means, methods, ~~[manner,]~~ and places in which it is lawful to take or possess alligators, alligator hides, alligator eggs, or any part of an alligator; and

~~(5) control of nuisance alligators.~~

SECTION 98. Section 65.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.005. POSSESSION. ~~[(a)]~~ No person may take, sell, purchase, or possess an alligator, ~~[the egg of]~~ an alligator egg, or any part of an alligator in this state except as permitted by the regulations of the commission.

~~[(b) This chapter does not prohibit consumers from purchasing or possessing goods processed or manufactured from alligators that have been taken in accordance with the law.]~~

SECTION 99. Section 65.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.006. LICENSE REQUIRED. (a) No person may take, attempt to take, ~~or possess~~ ~~or accompany another person who is attempting to take~~ an alligator in this state ~~during the open season established by the commission for taking alligators~~ unless the person ~~he~~ has acquired and possesses an alligator hunter's license.

(b) ~~No~~ ~~Except as provided by Section 65.005(b) of this code, no~~ person ~~for any purpose~~ may ~~possess~~, purchase, or possess after purchase an alligator, ~~an~~ alligator hide, ~~an~~ alligator egg, or any part of an alligator taken in this state unless:

(1) the person ~~he~~ has acquired and possesses a permit issued by the department for that purpose; or

(2) a regulation of the commission otherwise allows the possession or purchase without a permit ~~an alligator buyer's license~~.

SECTION 100. Section 65.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.007. LICENSE FEES. The fees for the licenses issued under this chapter are in the following amounts or in amounts set by the commission, whichever amounts are more:

(1) \$25 for a resident alligator hunter's license; ~~and~~

(2) ~~[\$150 for a resident alligator buyer's license;~~

~~(\$3) \$50 for a nonresident alligator hunter's license; and~~

~~(\$4) \$300 for a nonresident alligator buyer's license~~.

SECTION 101. Section 66.002(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person may catch, ~~take, or attempt to catch or take any aquatic animal life~~ ~~[fish]~~ by any means or method from ~~[the use of a net or seine or explosive or by poisoning, polluting, muddying, ditching, or draining in]~~ any privately owned waters ~~[lake, pool, or pond]~~ without the consent of the landowner or the landowner's agent ~~[owner]~~.

SECTION 102. Section 66.003(b), Parks and Wildlife Code, is amended to read as follows:

(b) Subsection (a) of this section does not apply to the use of explosives necessary for construction purposes when the use is authorized in writing by the department ~~county judge of the county where the work is to be done~~.

SECTION 103. Section 66.014(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person may transport any aquatic product for commercial purposes unless the person clearly identifies the motor vehicle, trailer, or semitrailer as a vehicle that carries aquatic products. The commission shall prescribe by proclamation the identification requirements for a motor vehicle, trailer, or semitrailer transporting aquatic products, and the commission may prescribe that the identification shall list the state of origin of the aquatic products. In this subsection, "motor vehicle," "trailer," and "semitrailer" ~~["semitrailer,"]~~ have the meanings assigned ~~[meaning given those terms]~~ by Section 541.201, Transportation Code ~~[the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)]~~.

SECTION 104. Section 66.015(d), Parks and Wildlife Code, is amended to read as follows:

(d) Subsection (b) of this [This] section does not apply to native, nongame fish as defined by the commission, except in waters designated by the commission where threatened or endangered fish are present.

SECTION 105. Section 66.109(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department ~~[commissioners court of each county]~~, by written order, may require the owner of a public or private dam or other obstruction on a regularly flowing public freshwater stream to construct or repair fishways or fish ladders sufficient to allow fish in all seasons to ascend or descend the dam or other obstruction for the purpose of depositing spawn.

SECTION 106. Section 66.2011, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.2011. RED DRUM AND SPECKLED SEA TROUT: PENALTIES ~~[DAILY CATCH AND RETENTION LIMITS]~~. ~~[(a) No person may:~~

~~[(1) catch and retain in one day more than 10 red drum;~~
~~[(2) possess at one time more than 20 red drum;~~
~~[(3) possess at one time more than two red drum longer than 35 inches; or~~

~~[(4) catch and retain a red drum shorter than 14 inches.~~

~~[(b) No person may:~~

~~[(1) catch and retain in one day more than 20 speckled sea trout;~~
~~[(2) possess at one time more than 40 speckled sea trout; or~~
~~[(3) catch and retain a speckled sea trout shorter than 12 inches.~~

~~[(c) Daily catch, retention, and size limits for redfish and speckled sea trout set by the commission under the Wildlife Conservation Act of 1983 (Chapter 61 of this code) prevail over the limits under this section. If the commission does not set catch, retention, and size limits for redfish and speckled sea trout under the conservation Act, this section applies.~~

~~[(d)] In addition to the penalty provided in Section 66.218 [of this code], a person who violates [this section or] a proclamation issued under [this section or under] Chapter 61 shall have all equipment, other than vessels, in the person's [his] possession used for the taking of red drum or speckled sea trout confiscated. A person who violates [this section or] a proclamation issued under [this section or under] Chapter 61 three or more times within a five-year period shall have all equipment, including vessels, in the person's [his] possession used for the taking of redfish or speckled sea trout confiscated.~~

SECTION 107. Sections 66.2012(d)-(f), Parks and Wildlife Code, are amended to read as follows:

(d) A proclamation of the commission under this section prevails over any conflicting provision of Section 66.020 ~~[Sections 66.201 and 66.2011 of this code]~~ to the extent of the conflict and only during the period that the proclamation is in effect.

(e) This section does not apply to activities that are regulated under the exceptions provided by Subdivisions (1), (2), and (3) of Section 66.020(b) ~~[66.201(e) of this code]~~ or under Subsections (f) and (g) of that section.

(f) A person who violates a proclamation issued under Subsection (a) ~~[of this section]~~ is guilty of an offense and is punishable for the first and subsequent offenses by the penalties prescribed by Sections ~~66.2011 [66.2011(d)]~~ and 66.218 ~~[of this code]~~.

SECTION 108. Section 67.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.001. DEFINITION~~[-REGULATIONS]~~. ~~[(a)]~~ In this chapter, "nongame" means those species of vertebrate and invertebrate wildlife indigenous to Texas~~[-and elk east of the Pecos,]~~ that are not classified as game animals, game birds, game fish, fur-bearing animals, endangered species, alligators, marine penaeid shrimp, or oysters.

~~[(b) The commission by regulation shall establish any limitations on the taking, possession, transportation, exportation, sale, and offering for sale of nongame fish and wildlife that the department considers necessary to manage these species.]~~

SECTION 109. Section 67.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.004. ISSUANCE OF REGULATIONS. (a) The commission by regulation shall establish any limits on the taking, possession, propagation, transportation, importation, exportation, sale, or offering for sale of nongame fish or wildlife that the department considers necessary to manage the species.

(b) The regulations shall state the name of the species or subspecies, by common and scientific name, that the department determines to be in need of management under this chapter.

~~[(b) The department shall conduct a public hearing on all proposed regulations and shall publish notice of the hearing in at least three major newspapers of general circulation in this state at least one week before the date of the hearing.]~~

~~[(c) The department shall solicit comments on the proposed regulations at the public hearing and by other means.]~~

~~[(d) On the basis of the information received at the hearing or by other means, the department may modify a proposed regulation.]~~

~~[(e) Regulations become effective 60 days after the date they are proposed unless withdrawn by the department.]~~

SECTION 110. Section 67.0041, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.0041. REGULATIONS AND PERMITS. (a) The department may issue permits for the taking, possession, propagation, transportation, sale, importation, or exportation of a nongame species of fish or wildlife if necessary to properly manage that species.

(b) The department may charge a fee for a permit issued under this section ~~[for a commercial activity]~~. The fee shall be set by the commission.

SECTION 111. Sections 68.014 and 68.015, Parks and Wildlife Code, are amended to read as follows:

Sec. 68.014. REGULATIONS. The department shall make regulations necessary to administer the provisions of this chapter and to attain its objectives, including regulations to govern:

- (1) permit application forms, fees, and procedures;
- (2) hearing procedures;
- (3) procedures for identifying endangered fish and wildlife or goods made from endangered fish or wildlife which may be possessed, propagated, or sold under this chapter; ~~and~~
- (4) publication and distribution of lists of species and subspecies of endangered fish or wildlife and their products; ~~and~~
- (5) ~~limitations on the capture, trapping, taking, or killing, or attempting to capture, trap, take, or kill, and the possession, transportation, exportation, sale, and offering for sale of endangered species.~~

Sec. 68.015. PROHIBITED ACTS. (a) ~~No person may capture, trap, take, or kill, or attempt to capture, trap, take, or kill, endangered fish or wildlife.~~

(b) No person may possess, sell, distribute, or offer or advertise for sale endangered fish or wildlife unless the fish or wildlife have been lawfully born and raised in captivity for commercial purposes under the provisions of this chapter.

(c) ~~(b)~~ No person may possess, sell, distribute, or offer or advertise for sale any goods made from endangered fish or wildlife unless:

(1) the goods were made from fish or wildlife that were born and raised in captivity for commercial purposes under the provisions of this chapter; or

(2) the goods were made from fish or wildlife lawfully taken in another state and the person presents documented evidence to the department to substantiate that fact.

(d) ~~(c)~~ No person may sell, advertise, or offer for sale any species of fish or wildlife not classified as endangered under the name of any endangered fish or wildlife.

SECTION 112. Sections 71.005(b)-(d), Parks and Wildlife Code, are amended to read as follows:

(b) ~~Except as provided by commission regulation, no~~ ~~[No]~~ person may purchase, ~~[or]~~ possess after purchase, ~~or transport for commercial purposes~~ a pelt or carcass taken in this state unless ~~the person~~ ~~[he]~~ has acquired and possesses a retail fur buyer's or wholesale fur dealer's license.

(c) No person may ~~capture~~ ~~[take]~~ or possess a live fur-bearing animal for ~~any~~ ~~[the]~~ purpose, ~~except as otherwise authorized by this code, [of propagation or sale]~~ unless he has acquired and possesses a fur-bearing animal propagation license.

(d) A person who possesses a hunting license ~~[and is engaged in a lawful hunting activity for any species other than fur-bearing animals]~~ may take and possess a fur-bearing animal if:

(1) neither the fur-bearing animal nor any part of that animal is taken for the purpose of sale, barter, or exchange; and

(2) the number of fur-bearing animals taken does not exceed the daily bag limit or possession limit set by commission regulation.

SECTION 113. Section 76.1031(b), Parks and Wildlife Code, is amended to read as follows:

(b) All licenses issued under the authority of this chapter [~~Chapter 76 of this code~~] may not be transferred to another person or vessel except as provided by this subsection. A license issued under the authority of Section 76.101(c) may be transferred to another vessel or to a new owner of the same vessel. The commission, by regulation, may prescribe requirements necessary to clarify license transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses in this chapter and for duplicate license plates or duplicate or replacement licenses.

SECTION 114. Section 76.116, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.116. OYSTERS FROM RESTRICTED [~~POLLUTED~~] AREAS.

(a) There is no open season for taking oysters from areas closed [~~declared to be polluted~~] by the Texas [~~State~~] Department of Health[, ~~and a person who takes oysters from such an area violates Section 76.108(a) of this code~~].

(b) The department may authorize by permit the transplanting of oysters from restricted areas or other areas designated by the department [~~polluted areas~~] to private oyster leases.

(c) A person removing oysters from a restricted area or other area designated by the department [~~polluted areas~~] without a permit shall replace the oysters in the beds from which they were taken as directed by authorized employees of the department.

SECTION 115. Section 77.020, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.020. PENALTY. (a) A person who violates a provision of this chapter except Section 77.024 or 77.061(a)(1) or who violates a regulation adopted under this chapter [~~of this code~~] commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant that the person [~~he~~] has been convicted once within five years before the trial date of a violation of a provision of this chapter except Section 77.024 or 77.061(a)(1) [~~of this code~~], or of a regulation adopted under this chapter, the person [~~he~~] is guilty of a Class B Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant that the person [~~he~~] has been convicted two or more times within five years before the trial date of a violation of a provision of this chapter except Section 77.024 or 77.061(a)(1) [~~of this code~~], or of a regulation adopted under this chapter, the person [~~he~~] is guilty of a Class A Parks and Wildlife Code misdemeanor.

SECTION 116. Section 77.0361, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) All licenses issued under the authority of this chapter [~~Chapter 77 of this code~~] may not be transferred to another person or vessel except as provided by Subsection (c) [~~this subsection~~] or by Section 77.113. A license issued under the authority of Section 77.043 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs. A license issued under the authority of Section 77.035 may be transferred to another vessel or to the new owner of the same vessel.

(c) The commission, by regulation ~~[rule]~~, may prescribe requirements necessary for license transfers and may prescribe, by regulation ~~[rule]~~, forms to be used and fees to be charged for transfers of licenses in this chapter, ~~[and]~~ for duplicate license plates, ~~or for~~ ~~[and/or]~~ duplicate or replacement licenses.

SECTION 117. Section 77.037, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.037. TRANSFER OF LICENSE. A commercial gulf shrimp boat license issued under this subchapter may be transferred on the application of the licensee from a boat that has been destroyed or lost to a boat acquired by the licensee as a replacement. The commission, by regulation, may prescribe requirements necessary to clarify license transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses authorized by this subsection.

SECTION 118. Section 77.044(b), Parks and Wildlife Code, is amended to read as follows:

(b) A bait-shrimp dealer's license may not be held by a person who also holds a wholesale fish dealer's ~~[shrimp house operator's]~~ license.

SECTION 119. The heading to Subchapter E, Chapter 81, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER E. WILDLIFE MANAGEMENT
AREAS AND PUBLIC HUNTING LANDS

SECTION 120. Section 81.402, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.402. REGULATION OF HUNTING AND FISHING. (a) The executive director ~~[department]~~ may prohibit hunting and fishing in wildlife ~~[game]~~ management areas or public hunting lands to protect any species of wildlife or fish.

(b) ~~[The department from time to time, as sound biological management permits, and until August 31, 1995, may allow open seasons for hunting and fishing.]~~

~~[(c)]~~ During an open season in wildlife management areas or public hunting lands, the executive director ~~[department]~~ may prescribe the number, kind, sex, and size of game or fish that may be taken.

~~(c)~~ ~~[(d)]~~ The executive director ~~[department]~~ may prescribe the means, methods, and conditions for the taking of game or fish during an open season in wildlife management areas or public hunting lands.

~~(d)~~ ~~As [(c) After August 31, 1995, and as]~~ sound biological management permits, the commission may ~~[only]~~ prescribe an open season for hunting after it has established a classification system for such areas in accordance with Section 13.001(b) ~~[of this code]~~.

SECTION 121. Section 81.403, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided in Subsections ~~[Subsection]~~ (b) and (e) ~~[of this section]~~, permits for hunting of wildlife or for any other use in wildlife ~~[on game]~~ management areas shall be issued by the department to applicants by means of a fair method of distribution subject to limitations on the maximum number of permits to be issued.

(e) The department may authorize and accept multiple applications for special hunting permits, programs, packages, or events.

SECTION 122. Subchapter B, Chapter 1, Parks and Wildlife Code, is amended by adding Section 1.013 to read as follows:

Sec. 1.013. FENCES. This code does not prohibit or restrict the owner or occupant of land from constructing or maintaining a fence of any height on the land owned or occupied, and an owner or occupant who constructs such a fence is not liable for the restriction of the movement of wild animals by the fence. The existence of a fence does not affect the status of wild animals as property of the people of this state.

SECTION 123. Section 47.02(c), Penal Code, is amended to read as follows:

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct:

(1) was permitted under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

(2) was permitted under the Charitable Raffle Enabling Act (Article 179f, Revised Statutes);

(3) consisted entirely of participation in the state lottery authorized by the State Lottery Act (Chapter 466, Government Code);

(4) was permitted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(5) consisted entirely of participation in a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by [privileges authorized under] the Parks and Wildlife Department [Code].

SECTION 124. The following provisions of the Parks and Wildlife Code are repealed: Sections 11.0161(b), 12.004(a), 12.007, 12.012, 12.014, 12.016, 12.022, 12.023, 12.111, 13.0011, 13.0012, and 13.111; Subchapter E, Chapter 23; Sections 41.001, 41.002, 41.007, 43.046, 43.048, 43.0485, 43.0761, 43.0765, 44.0135, 46.107, 47.036, 49.004, 49.0045, 49.0047, 49.005-49.009, 49.013, 61.004, 61.105, 61.203, 62.027, 62.028, 66.112, 66.302, 76.010, 76.011, 76.013, 76.014, 76.018, 76.034, 76.105, 76.108, 76.110, 76.111, 76.112(a), 76.113, 77.001(9), 77.005, 77.012, 77.013, 77.016-77.019, 77.038, 77.041, 77.042, 77.047, 77.063(a), 77.064-77.070; Subchapter E, Chapter 77; Sections 81.002 and 81.201-81.205; Subchapter A, Chapter 82; Subchapter A, Chapter 114; Subchapter A, Chapter 130; Subchapter A, Chapter 131; Subchapter A, Chapter 134; Subchapter A, Chapter 136; Subchapter A, Chapter 143; Subchapter A, Chapter 192; Subchapter A, Chapter 202; Subchapter A, Chapter 216; Subchapters A and B, Chapter 223; Section 223.022; Subchapter A, Chapter 237; Subchapters A and D, Chapter 246; Subchapter A, Chapter 258; Subchapter A, Chapter 272; Subchapter A, Chapter 283; Section 355.003; and Chapters 101-113, 115-129, 132, 133, 135, 137-142, 144-191, 193-201, 203-215, 217-222, 224-236, 238-245, 247-257, 259-271, 273-282, and 284-354.

SECTION 125. This Act takes effect September 1, 1997.

SECTION 126. (a) A change in law made by this Act that relates to an offense or penalty applies only to an offense committed on or after

September 1, 1997. For purposes of this section, an offense is committed before September 1, 1997, if any element of the offense occurs before that date.

(b) An offense committed before September 1, 1997, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 127. A rule adopted by the Parks and Wildlife Commission before September 1, 1997, is not invalid because the rule conflicts with a provision of the Parks and Wildlife Code that was in effect at the time the rule was adopted and that is repealed by this Act. A rule adopted before September 1, 1997, that conflicts with a provision in effect at the time the rule was adopted and repealed by this Act may not take effect before September 1, 1997.

SECTION 128. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brown and by unanimous consent, further consideration of **CSHB 2542** was postponed to a time certain of 10:35 a.m. today.

Question—Shall Floor Amendment No. 1 to **CSHB 2542** be adopted?

SENATE BILL 1560 ON SECOND READING

Senator Wentworth asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SB 1560, Relating to the appointment of citizens by a political subdivision to assist in the enforcement of the Texas Litter Abatement Act.

There was objection.

Senator Wentworth then moved to suspend the regular order of business and take up **SB 1560** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna.

SB 1560 was read second time.

Senator Wentworth offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1560** in Section 1 of the bill as follows:

(1) In added Section 365.0121(a), Health and Safety Code (page 1, lines 10 and 11 introduced version), strike "by disposing of household waste by placing the waste at a roadside park".

(2) In added Section 365.0121, Health and Safety Code (page 2, lines 11 and 12, introduced version), strike Subsection (f).

The committee amendment was read and was adopted by a viva voce vote.

SB 1560 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1560 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1560** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna.

SB 1560 was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

CONFERENCE COMMITTEE ON HOUSE BILL 1975

Senator Sibley called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1975** and moved that the request be granted.

The motion prevailed.

The Presiding Officer, Senator Truan in Chair, asked if there were any motions to instruct the conference committee on **HB 1975** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Lucio, Madla, Carona, and Harris.

SENATE BILL 973 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 973** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 973** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the State Cemetery and the creation of the State Cemetery Committee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2165.256, Government Code, is amended to conform to Section 1, Chapter 264, Acts of the 74th Legislature, 1995, and further amended to read as follows:

Sec. 2165.256. STATE CEMETERY AND OTHER BURIAL GROUNDS.

(a) The State Cemetery Committee ~~[commission]~~ shall oversee all operations of the State Cemetery:

~~[(1) control, manage, and beautify the grounds of the State Cemetery;~~

~~[(2) preserve the grounds of the cemetery and related property; and~~

~~[(3) protect the property from depreciation and injury].~~

(b) In addition to the property described as Lot No. 5, Division B, City of Austin, Travis County, Texas, the following property is dedicated for cemetery purposes as part of the State Cemetery: BEING APPROXIMATELY 50.00 ACRES OF LAND OUT OF AND A PORTION OF THE FOLLOWING DESCRIBED TRACT OF LAND. 75.688 RECORD ACRES OF LAND OUT OF THE GEORGE W. SPEAR SURVEY IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, DESCRIBED BY DEED TO THE STATE OF TEXAS AS RECORDED IN VOLUME 76, PAGE 225, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 75.688 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(1) bounded on the west by Bull Creek Road;

(2) bounded on the north by the following subdivisions in the City of Austin, Texas:

(A) Shoal Village Section 2, as recorded in Plat Book 5, Page 150, of the Plat Records of Travis County, Texas;

(B) Shoal Village Section 3, as recorded in Plat Book 6, Page 71, of the Plat Records of Travis County, Texas;

(C) Shoal Village Section 5, as recorded in Plat Book 6, Page 72, of the Plat Records of Travis County, Texas;

(D) Shoal Village Section 6, as recorded in Plat Book 7, Page 7, of the Plat Records of Travis County, Texas;

(E) Shoal Village Section 7, as recorded in Plat Book 14, Page 80, of the Plat Records of Travis County, Texas; and

(F) Oak Haven Section 3, as recorded in Plat Book 11, Page 40, of the Plat Records of Travis County, Texas;

(3) bounded on the east by the centerline of Shoal Creek; and

(4) bounded along the south by Ridgelea, a subdivision of record in the City of Austin, Texas, as recorded in Plat Book 4, Page 258, of the Plat Records of Travis County, Texas.

(c) The ~~committee~~ ~~[commission]~~ shall procure and erect at the head of each grave that does not have a permanent monument a marble obelisk on which shall be engraved the name of the dead buried in the grave.

(d) ~~[(c)]~~ Persons eligible for burial in the State Cemetery are:

(1) a former member of the legislature or a member who dies in office;

(2) a former elective state official or an elective state official who dies in office;

(3) a former state official or a state official who dies in office who has been appointed by the governor and confirmed by the senate and who served at least 12 years in the office to which appointed;

(4) a person specified by a governor's proclamation, subject to review and approval by the committee under Subsection (e); [and]

(5) a person specified by a concurrent resolution adopted by the legislature, subject to review and approval by the committee under Subsection (e); and

(6) a person specified by order of the committee under Subsection (e).

(e) The committee shall review proclamations under Subsection (d)(4) and resolutions under Subsection (d)(5). A person specified in a proclamation or resolution is eligible for burial in the State Cemetery only if the committee, following its review, finds that the person specified made a significant contribution to Texas history and only if, based on that finding, the committee approves the person's burial in the cemetery. The committee may by order authorize a burial under Subsection (d)(6) only during a period in which the legislature is not convened in regular or special session and only if the committee finds that the person made a significant contribution to Texas history.

(f) ~~(d)~~ Grave spaces are allotted for:

(1) a person eligible for burial under Subsection (d) ~~(c)~~;

(2) the person's spouse; and

(3) the person's unmarried child, if the child, on September 1, 1979, or at the time of the child's death, is a resident in a state eleemosynary institution.

(g) ~~(c)~~ A child eligible for burial under Subsection (f)(3) ~~(d)(3)~~ must be buried alongside the child's parent or parents.

(h) ~~(f)~~ A grave plot may not be longer than eight feet nor wider than ~~three~~ ~~five~~ feet times the number of persons of one family authorized to be buried alongside one another.

(i) The committee shall adopt rules regulating the monuments erected in the State Cemetery ~~(g) A monument or statue may not be erected that is taller than a monument or statue that existed in the State Cemetery on September 1, 1979].~~

(j) ~~(h)~~ A tree, shrub, or flower may not be planted in the State Cemetery without the committee's ~~commission's~~ written permission.

(k) ~~(i)~~ A person may be buried on state property only in the State Cemetery or in a cemetery maintained by a state eleemosynary institution. Other state property, including the State Capitol grounds, may not be used as a burial site.

(l) ~~(j)~~ The committee ~~commission~~ shall allot and locate the necessary number of grave plots authorized on application made by:

(1) the person primarily eligible for burial under Subsection (d) ~~(c)~~;

(2) the person's spouse; or

(3) the executor or administrator of the person's estate.

(m) The committee shall consider for burial in the State Cemetery persons who have made significant contributions to Texas history and culture in the following fields: air and space, agriculture, art and design, business and labor, city building, education, industry, justice, military affairs, law enforcement, oil and gas, performing arts, philanthropy, ranching, religion, science and medicine, sports, and writing.

(n) The committee shall consider for reinterment in the State Cemetery persons from the following eras: Spanish exploration and colonization, Mexican, Texas revolution, republic and statehood, Civil War and Reconstruction, frontier, Gilded Age, progressive, Great Depression and World War II, postwar, and modern.

(o) The committee shall designate different areas of the cemetery for burial of persons from the fields described in Subsection (m).

(p) The committee shall develop plans for obtaining land adjacent to the State Cemetery for expansion of the cemetery.

(q) The committee shall actively pursue plot reservations from persons eligible for burial in the State Cemetery.

(r) The committee shall encourage members of the legislature to advise constituents who are eligible for burial in the State Cemetery.

(s) The committee may accept a gift, grant, or bequest of money, securities, services, or property to carry out any purpose of the committee, including funds raised or services provided by a volunteer or volunteer group to promote the work of the committee. The committee may participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the committee, and the committee may contract with such an organization for the performance of such activities.

SECTION 2. Subchapter F, Chapter 2165, Government Code, is amended by adding Section 2165.2561 to read as follows:

Sec. 2165.2561. STATE CEMETERY COMMITTEE. (a) The State Cemetery Committee is composed of:

(1) three voting members appointed as follows:

(A) one member of the general public appointed by the governor;

(B) one member of the general public appointed by the governor from a list submitted by the lieutenant governor; and

(C) one member of the general public appointed by the governor from a list submitted by the speaker of the house of representatives; and

(2) three nonvoting advisory members appointed as follows:

(A) one employee of the Texas Historical Commission appointed by the executive director of the Texas Historical Commission;

(B) one employee of the General Services Commission appointed by the executive director of the General Services Commission; and

(C) one employee of the Parks and Wildlife Department appointed by the executive director of the Parks and Wildlife Department.

(b) The governor shall designate the presiding officer of the committee from among its members, and the presiding officer shall serve in that capacity for two years.

(c) The members of the committee appointed by the governor are appointed for staggered terms of six years with one member's term expiring February 1 of each odd-numbered year. The advisory members of the committee serve at the will of the appointing authority.

(d) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) A vacancy on the committee is filled by the appointing authority in the same manner as the original appointment.

(f) An employee member vacates the member's position on the committee if the member ceases to be an employee of the appointing agency.

(g) A person is not eligible for appointment to the committee by the governor if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the committee;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the committee; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the committee, other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

(h) A person may not serve as a member of the committee if the person is required to be registered as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the State Cemetery.

(i) A public member of the committee is not entitled to compensation but is entitled to reimbursement, from committee funds, for the travel expenses incurred by the member while conducting the business of the committee, as provided in the General Appropriations Act. The entitlement of an employee member to compensation or reimbursement for travel expenses is governed by the law applying to the person's service in that underlying position, and any payments to the person shall be made from the appropriate funds of the employing agency.

(j) All plans, programs, and materials relating to historical interpretation of the State Cemetery shall be submitted to the Texas Historical Commission for its review and approval. The Texas Historical Commission may provide staff support for activities interpreting the historical features of the State Cemetery.

(k) At the direction of the committee, the General Services Commission shall spend money appropriated to or budgeted by the General Services Commission for State Cemetery purposes. Activities relating to maintenance of the State Cemetery grounds and monuments shall conform to guidelines for historic preservation submitted to the committee by the Texas Historical Commission.

(l) Funds appropriated to the General Services Commission may be transferred by interagency contract for the performance of, at the direction of the committee, an act related to the State Cemetery.

(m) The committee may adopt rules as necessary for the administration of the State Cemetery.

SECTION 3. (a) In addition to the substantive changes made by this Act, this Act conforms Section 2165.256, Government Code, to Section 1, Chapter 264, Acts of the 74th Legislature, 1995.

(b) Section 1, Chapter 264, Acts of the 74th Legislature, 1995, is repealed.

(c) To the extent of any conflict, this Act prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. (a) The initial gubernatorial appointments to the State Cemetery Committee shall be made so that one member is appointed to a term expiring February 1, 1999, one member to a term expiring February 1, 2001, and one member to a term expiring February 1, 2003.

(b) Until a majority of the persons appointed by the governor under this section assume their positions, the operation of the State Cemetery continues to be governed by the law as it existed immediately before the effective date of this Act, and the prior law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1997.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Barrientos, the Senate concurred in the House amendment to **SB 973** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 2692

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2692** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2692** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Shapiro, Cain, Lucio, and West.

SENATE BILL 105 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 105, Relating to the dedication of revenue derived from the state lottery to the foundation school fund.

The bill was read second time.

Senator Nelson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 105** as follows:

Amend paragraph (4) beginning on page 1, line 19, to read as follows:

"(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred on or before the 15th day of each month as follows:

(A) four percent of the funds set aside for Subdivision (1) to the credit of a special account in the general revenue fund to be used to fund tuition assistance grants under Subchapter G, Chapter 55, Education Code;

(B) one percent of the balance to the Texas Education Agency for community-based adult literacy programs;

~~(C) the remainder to the foundation school [unobligated portion of the general revenue] fund[, on or before the 15th day of each month]."~~

The committee amendment was read.

Senator Nelson moved to table Committee Amendment No. 1.

The motion to table was lost by the following vote: Yeas 11, Nays 16.

Yeas: Bivins, Brown, Duncan, Fraser, Galloway, Harris, Haywood, Nelson, Nixon, Shapiro, Sibley.

Nays: Armbrister, Barrientos, Cain, Carona, Ellis, Gallegos, Lindsay, Lucio, Madla, Moncrief, Shapleigh, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent: Ogden, Patterson, Ratliff.

Absent-excused: Luna.

Question recurring on the adoption of Committee Amendment No. 1, the committee amendment was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 105** by adding new sections appropriately numbered to read as follows:

SECTION __. Section 466.355, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that

the costs incurred in a fiscal biennium may not exceed an amount equal to 15 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred on or before the 15th day of each month as follows:

(A) the portion of the balance attributable to the lottery game operated under Section 466.026 determined as provided by Subsection (c) as follows:

(i) 80 percent to the Texas Higher Education Coordinating Board for the purpose of funding tuition grants as provided under Subchapter G, Chapter 56, Education Code; and

(ii) 20 percent to the Texas Education Agency to provide grants for adult literacy services. Adult literacy services funded by this section must be operated by a nonprofit community-based organization approved by the agency or by an association of literacy providers jointly led by a nonprofit community-based organization and a Texas Education Agency consortium.

(B) the remainder of the balance to the unobligated portion of the foundation school [general revenue] fund[, on or before the 15th day of each month].

(c) The portion of the balance of the state lottery account attributable to the lottery game operated under Section 466.026 for each period for which a distribution is made under Subsection (b) is an amount equal to the revenue from the sale of tickets to the lottery game operated under Section 466.026 for the period less an amount calculated by multiplying the total amount deposited to the reserve account to pay the amounts needed or estimated to be needed for the period under Subsections (b)(1) through (3) by a fraction, the numerator of which is the revenue from the sale of tickets to the lottery game operated under Section 466.026 for the period and the denominator of which is the total revenue from the sale of tickets to all lottery games for the period.

SECTION __. Subchapter B, Chapter 466, Government Code, is amended by adding Section 466.026 to read as follows:

Sec. 466.026. GAME TO FUND TEXAS HOPE EDUCATION PROGRAM. (a) The commission shall operate a lottery game to fund the Texas HOPE Education Program. The program consists of the Texas Tuition Assistance Grant Program established by Subchapter G, Chapter 56, Education Code, adult literacy services funded by this Act, and other educational programs as provided by law. The commission shall operate the game as an instant-win game and shall provide for tickets to the game to be available for sale continuously to the extent practicable. The commission may vary the manner in which the game is played or conducted as the commission determines appropriate.

(b) The commission shall market and advertise the lottery game operated under this section in a manner intended to inform the general public that tickets to the game are available for purchase and that the net proceeds from

the game are used to fund educational programs in this state. The commission shall consider any recommendations made by the Texas Higher Education Coordinating Board and the Texas Education Agency relating to the marketing and advertising of the game.

(c) The commission shall encourage each ticket sales agent that sells tickets to instant-win or similar types of lottery games to sell tickets to the lottery game operated under this section.

(d) The commission may not operate, market, or advertise any other lottery game to fund or support a specific program or purpose.

SECTION _____. Section 481.026, Government Code, is repealed.

SECTION _____. (a) This Act takes effect September 1, 1997.

(b) The change in law made by this Act to Section 466.355(b), Government Code, applies only to a transfer from the state lottery account made on or after the effective date of this Act.

(c) The Texas Lottery Commission shall establish and begin selling tickets to the lottery game required by Section 466.026, Government Code, as added by this Act, not later than January 1, 1998.

(d) The Texas Higher Education Coordinating Board shall make grants under the Texas Tuition Scholarship Program beginning with the 1998 fall semester.

ELLIS
WENTWORTH
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The amendment was read and was adopted by the following vote:
Yeas 16, Nays 10.

Yeas: Armbrister, Barrientos, Cain, Carona, Ellis, Gallegos, Lindsay, Lucio, Madla, Moncrief, Shapleigh, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Brown, Duncan, Fraser, Galloway, Harris, Nelson, Nixon, Shapiro, Sibley.

Absent: Haywood, Ogden, Patterson, Ratliff.

Absent-excused: Luna.

Senator Haywood offered the following amendment to the bill:

Floor Amendment No. 2

(1) Amend **SB 105** by adding a new Subsection (4) on page 1 line 40 as follows:

(4) The director shall adopt rules necessary to allow a county or municipality to retain five percent of the money collected from the sale of tickets by a sales agency located within the revenue area of a county or municipality.

(b) The revenue area of a county does not include the area within the boundaries of a municipality. This subsection (4) takes effect September 1, 2001.

(2) On page 1, line 43 change "(3)" to "(4)"

(3) Renumber subsequent sections appropriately

The amendment was read and was adopted by the following vote:
Yeas 15, Nays 13.

Yeas: Armbrister, Cain, Carona, Ellis, Gallegos, Galloway, Haywood, Lindsay, Madla, Nixon, Patterson, Shapleigh, West, Whitmire, Zaffirini.

Nays: Barrientos, Bivins, Brown, Duncan, Fraser, Harris, Lucio, Moncrief, Nelson, Shapiro, Sibley, Truan, Wentworth.

Absent: Ogden, Ratliff.

Absent-excused: Luna.

SB 105 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Duncan, Harris, and Ogden asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 105 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 105** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Patterson, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Duncan, Harris, Ogden.

Absent: Ratliff.

Absent-excused: Luna.

SB 105 was read third time and was passed by the following vote:
Yeas 23, Nays 6.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Ellis, Gallegos, Galloway, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Patterson, Shapiro, Shapleigh, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Duncan, Fraser, Harris, Ogden, Sibley.

Absent: Ratliff.

Absent-excused: Luna.

GUESTS PRESENTED

Senator Gallegos was recognized and introduced to the Senate Luciano Salinas and a group of his students from the United Hispanic Association of North Harris College.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate the Brazoria County Commissioners Court: County Judge John Willy, Commissioner Jack Harris, Commissioner David Head, Commissioner Jack Patterson, and Commissioner James D. Clawson.

The Senate welcomed its guests.

(President in Chair)

BILLS AND RESOLUTION SIGNED

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

HB 255, HB 358, HB 404, HB 515, HB 717, HB 722, HB 729, HB 749, HB 880, HB 975, HB 1077, HB 1126, HB 1137, HB 1154, HB 1155, HB 1178, HB 1180, HB 1242, HB 1298, HB 1367, HB 1531, HB 1638, HB 1651, HB 1724, HB 1795, HB 1798, HB 1878, HB 1879, HB 1916, HB 2073, HB 2075, HB 2116, HB 2138, HB 2259, HB 2286, HB 2492, HB 2769, HB 2812, HB 2847, HB 2945, HB 3231, HCR 208

**COMMITTEE SUBSTITUTE
HOUSE BILL 2542 ON SECOND READING**

The President laid before the Senate **CSHB 2542** on its second reading and passage to third reading. The bill was read second time, Floor Amendment No. 1 was offered, and further consideration was postponed to a time certain of 10:35 a.m. today.

CSHB 2542, Relating to the regulation of parks and wildlife; providing penalties.

Question—Shall Floor Amendment No. 1 to **CSHB 2542** be adopted?

Senator West offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 2542** as follows:

In SECTION 3 of the amendment, add the following to Sec. 11.0181(a)(2) after the phrase "increase the participation in outdoor recreation": "including recreational activities in urban areas consistent with the mission and goals of the department."

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

(Senator Nixon in Chair)

Senator Truan offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSHB 2542**, in SECTION 37 of the bill, on page 20, lines 2 through 7, Section 43.356(b), Parks and Wildlife

Code, by striking subsection (b) in its entirety and substituting in lieu thereof a new subsection (b) to read as follows:

(b) The scientific breeder shall place a suitable permanent tag bearing the scientific breeder's serial number on the ear of each white-tailed deer or mule deer possessed by the scientific breeder and shall place on the white-tailed deer or mule deer any other identification marking prescribed by the commission only at such time that the deer is removed from the scientific breeder's facility.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

VOTE RECONSIDERED

On motion of Senator Armbrister and by unanimous consent, the vote by which Floor Amendment No. 1 as amended to **CSHB 2542** was adopted was reconsidered.

Question—Shall Floor Amendment No. 1 as amended to **CSHB 2542** be adopted?

Senator Moncrief offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to **CSHB 2542**, SECTION 46, Sec. 43.601., by adding (c) The holder of a deer management permit issued under this subchapter may not allow the harvest for remuneration out of seasons established by the Commission.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question again recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was again adopted by a viva voce vote.

CSHB 2542 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2542 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2542** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

CSHB 2542 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Mayor Fernando Pena, City Commissioners Gabriel E. Recio and Jose F. Moraida, and Finance Director Pedro O. Alaniz, of Roma.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate a group of third-grade students and their teachers from Lake Travis Primary School.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

Wednesday, May 14, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 239, Honoring Brigadier General Bertus Leroy Sisco of the Texas State Guard.

HCR 259, Congratulating Dr. John L. Rumley on being named 1997 Dentist of the Year by the Dallas County Dental Society.

SB 394, Relating to the application process for state loan and loan guaranty programs.

SB 706, Relating to recomputation of an employer's unemployment compensation experience rate based on payment by the employer of certain voluntary contributions.

SB 1007, Relating to increased civil penalties for deceptive trade practices against elderly consumers.

SB 1663, Relating to the business of selling checks.

SB 1906, Relating to the administration of oil overcharge funds.
(Amended)

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 463 (138 Yeas 0 Nays 1 Present-not voting)

HB 606 (143 Yeas 0 Nays 1 Present-not voting)

HB 870 (140 Yeas 0 Nays 1 Present-not voting)
HB 963 (Viva-voce vote)
HB 1387 (Viva-voce vote)
HB 1406 (138 Yeas 0 Nays 2 Present-not voting)
HB 1487 (Viva-voce vote)
HB 1826 (Viva-voce vote)
HB 2074 (Viva-voce vote)
HB 2123 (140 Yeas 0 Nays 2 Present-not voting)
HB 2126 (Viva-voce vote)
HB 2201 (141 Yeas 0 Nays 3 Present-not voting)
HB 2348 (Viva-voce vote)
HB 2601 (Viva-voce vote)
HB 3456 (Viva-voce vote)
HB 3457 (Viva-voce vote)

THE HOUSE HAS APPOINTED CONFEREES ON THE FOLLOWING MEASURES:

HB 1228

House Conferees: Jackson - Chair/Dukes/Howard/Kuempel/Puente

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 606

House Conferees: Hinojosa - Chair/Gutierrez/Kamel/Rabuck/Rangel

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Harris and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Administration might consider the following resolutions tomorrow:

HCR 80, HCR 14, HCR 86

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Health and Human Services might consider **HB 727** today.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Jurisprudence might consider the following bills today: **HB 40, HB 455**

**SENATE RULE 11.11 SUSPENDED
(Posting Rule)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might meet today.

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Truan and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on International Relations, Trade, and Technology might consider **HB 540** today.

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Truan, on behalf of Senator Ratliff, and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Finance might consider **HB 1518** today.

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Harris announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held tomorrow upon conclusion of the daily session and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

MEMORIAL RESOLUTIONS

SR 728 - by Duncan: In memory of Marion Benson Blake of Lubbock.

SR 730 - by Galloway: In memory of Judge Oscar F. Nelson, Jr., of Chambers County.

SR 736 - by Shapleigh: In memory of Lorenzo G. Loya of San Elizario.

CONGRATULATORY RESOLUTIONS

SCR 91 - by Barrientos: Commending Pamela W. Reese of Austin.

SR 731 - by Galloway: Commending Henry McAdams of Port Arthur.

SR 732 - by Shapleigh: Commending Lorenzo Barrios of El Paso County.

SR 733 - by Shapleigh: Commending William B. Madden of El Paso County.

SR 734 - by Shapleigh: Commending Pat Esparza of El Paso.

SR 735 - by Shapleigh: Congratulating Bill Parks of El Paso.

MISCELLANEOUS RESOLUTION

SR 729 - by Duncan: Recognizing May 28, 1997, as Elmer Kelton Day.

ADJOURNMENT

On motion of Senator Truan, the Senate at 12:22 p.m. adjourned, in memory of Benjamin Howard Gaston, M.D., father of James Gaston, until 9:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

May 14, 1997

INTERGOVERNMENTAL RELATIONS — **SB 1952, CSHB 3263**

JURISPRUDENCE — **CSHB 1091**

HEALTH AND HUMAN SERVICES — **HCR 145, HB 1534, HB 561, HB 2673, HB 2451, HB 2685, HB 3233, HB 2389, HB 2255, HB 2192, HCR 189, HB 2596**

JURISPRUDENCE — **CSSB 165**

INTERGOVERNMENTAL RELATIONS — **CSHB 1401, HB 3234**
(Amended)

FINANCE — **CSHB 1107**

INTERGOVERNMENTAL RELATIONS — **HB 2049** (Amended)

SENT TO GOVERNOR

May 14, 1997

SB 203, SB 297, SB 367, SB 788, SB 996, SB 1131, SB 1243, SB 1455, SB 1782, SB 1904, SB 26, SB 174, SB 386, SB 802, SB 863, SB 911, SB 992, SB 1158, SB 1301, SB 1394, SB 1465, SB 1696, SB 1706, SB 1750, SB 1829, SB 1830, SB 1851

